108-184

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 198. 199

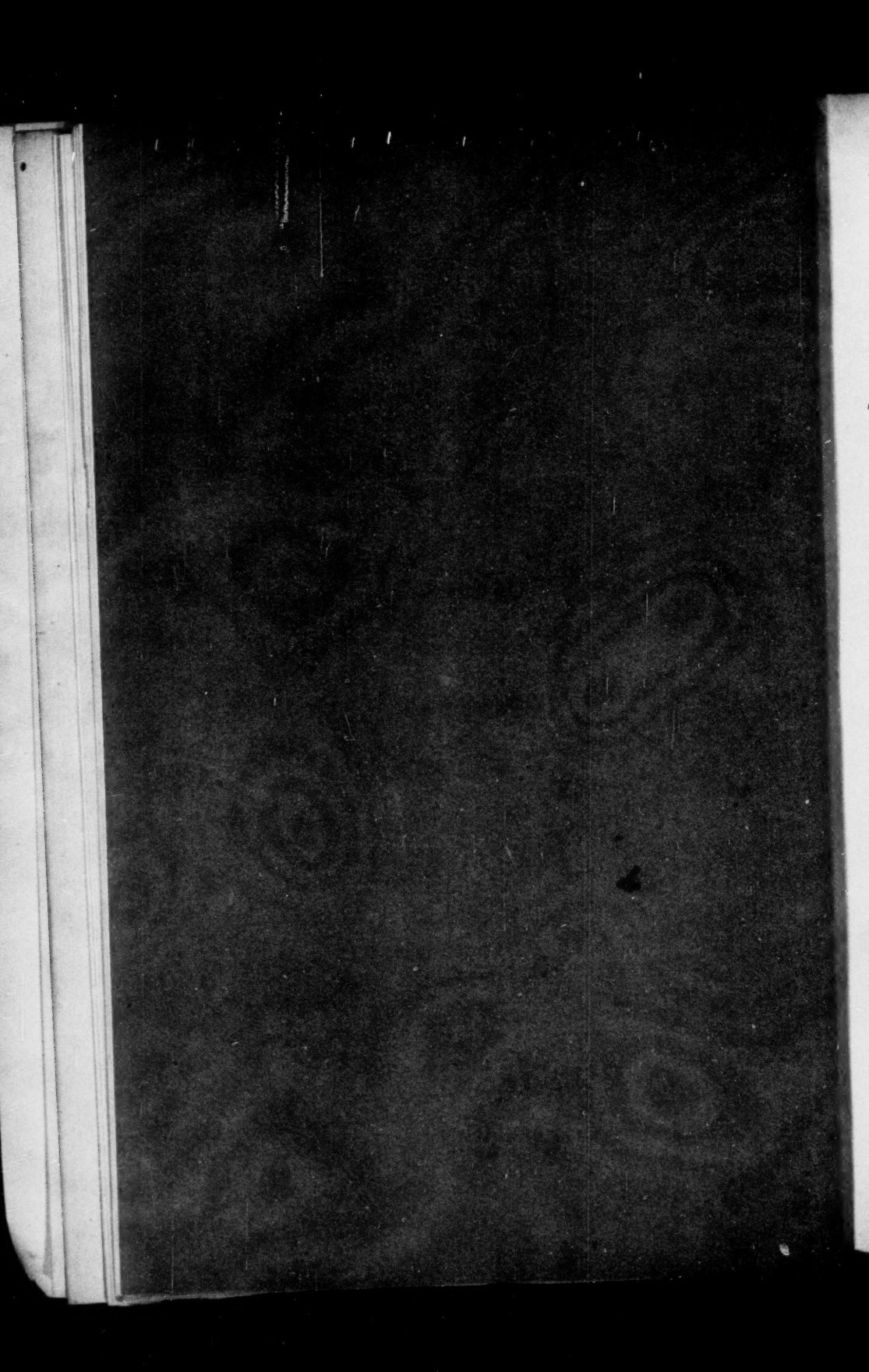
THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, PLAINTIFFS IN ERROR,

vs.

EUGENE KELLY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA.

FILED MARCH 17, 1880.



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1 UNITED STATES OF AMERICA,
Southern District of Georgia, ss:

[SEAL.] At a stated term of the fifth circuit court of the United States of America for the southern district of Georgia, held at the United States court-rooms, in the city of Savannah, in and for the said district, on Wednesday, the 26th day of November, in the year of our Lord one thousand eight hundred and seventy-nine.

Present, the honorable Wm. B. Woods, judge of the fifth judicial circuit of the United States.

EUGENE KELLY
vs.
THE MAYOR AND ALDERMEN OF THE CITY OF Savannah. } Action on bonds and coupons.

Be it remembered that heretofore, to wit, on the twenty-fourth day of March, A. D. 1879, came the said plaintiff, by George A. Mercer, esq., his attorney, and filed his declaration in said cause against The Mayor and Aldermen of the City of Savannah, in the fifth circuit court of the United States, for the southern district of Georgia, in the words and figures following, to wit:

2 *Declaration.*

To the honorable the judges of the circuit court of the United States for the southern district of Georgia:

The petition of Eugene Kelly, who avers himself to be a citizen of and residing in the State of New York, in the said United States of America, showeth that he complains of The Mayor and Aldermen of the City of Savannah, a municipal corporation under the statutes of the State of Georgia, a citizen of said State, located and having its domicil in the county of Chatham, in the southern district of Georgia aforesaid, of a plea of breach of covenant, for that, whereas, heretofore, to wit, on the first day of January, eighteen hundred and fifty-nine, the Savannah, Albany and Gulf Railroad Company, a corporation under the statutes of Georgia,
3 and located and having its principal place of business in the city of Savannah, and county of Chatham, in the southern district of Georgia aforesaid, by nineteen certain bonds or obligations in writing, then and there made by said corporation, bearing date the day and year last aforesaid, and numbered respectively 380, 335, 447, 446, 444, 553, 534, 533, 461, 106, 107, 108, 109, 110, 545, 546, 547, 548, 457, sealed with the common seal of said corporation, and signed and attested by the president and secretary thereof, did acknowledge to owe and bind itself to pay to , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars on each of said bonds or obligations as principal, with interest thereon, at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the coupons annexed to said bonds respectively at the said company's office in Savannah.

And the said corporation did by said coupons annexed to said bonds

4 respectively duly acknowledge to be due to the bearer thereof seventeen dollars and fifty cents, being the interest for six months on said bonds respectively, to which said coupons were attached, payable on the first day of January and the first day of July in each year thereafter. Eighty-five (85) of said coupons, each for said amount, due respectively on the days following, that is, nineteen (19) coupons due on the first day of January, 1879; nineteen coupons due on the first day of July, 1878; nineteen coupons due on the first day of January, 1878; nineteen coupons due on the first day of July, 1877, and nine other coupons due on the first day of January, 1877, and bearing the numbers of the bond to which they belonged, being now due and unpaid, besides interest upon each and all of the same from the time of the maturity thereof.

And whereas the said defendent then and there, to wit, at the date of the issue of said bonds, and contemporaneously with the issue of the same and of the said coupons annexed thereto, for value received, and upon the recommendation of a public meeting of the citizens of Savannah called for that purpose, did, by its writing obligatory duly made, with
5 the seal of the said corporation affixed, signed by its mayor and attested by its clerk of council, on the back of each of said bonds, guarantee the payments of the within bond, principal and interest, as the same became due, according to the tenor thereof, as will more fully appear from a copy of each of said writings obligatory thereto attached as a part of this petition, and which said writings obligatory your petitioner now bring here into court.

And petitioner shows that the said defendant, for value received, and for purposes of internal improvement, did cause the said bonds or writings obligatory, so duly made as aforesaid, to be issued in the manner aforesaid, and did thereby pledge its faith and credit for the due payment thereof, as thereunto duly authorized; and that your petitioner, relying upon the faith and credit of said defendant, so publicly pledged as aforesaid, in due course of trade, before the said bonds and coupons became due as aforesaid, and for value, did become and still is the lawful bearer of the same.

6 And the petition of the said Eugene Kelly further showeth that the said defendant is indebted to him in the sum of nine thousand five hundred dollars, besides interest thereon, for coupons and interest thereon, on 19 bonds or writings obligatory, dated each January 1st, eighteen hundred and fifty-nine, duly made by the defendant on the same number of bonds or writings obligatory made by the Savannah, Albany and Gulf Railroad Company, a corporation under the statutes of Georgia, the said bonds or writings obligatory being numbered, respectively, 380, 335, 447, 446, 444, 553, 534, 533, 461, 106, 107, 108, 109, 110, 545, 546, 547, 548, and 457, payable to bearer, and each due twenty years after the date thereof, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, according to coupons annexed to said bonds respectively, and eighty-
7 five (85) of said coupons being now due, the payment of which said bonds and coupons the said defendant, for value received, by its writing obligatory, under its seal, placed upon the back thereof, and contemporaneously with the issue thereof, did guarantee the payment of the within bonds, principal and interest, as the same became due according to

the tenor thereof, as will more fully appear from copies of said writings obligatory hereto attached as a part of this petition, and which said writings obligatory the said defendant refuses to pay.

And your petitioner further shows that the said bonds and coupons or writings obligatory became due and payable, respectively, at the dates aforesaid, to wit, the bonds on the first day of January, 1879 (eighteen hundred and seventy-nine), and the coupons as follows: nineteen coupons on January first, 1879; nineteen coupons on July first, 1878; nineteen coupons on January first, 1878; nineteen coupons on July first, 1877, and nine coupons on January first, 1877.

8 And that on the days when the same so became due and payable your petitioner duly demanded payment thereof from the Atlantic and Gulf Railroad Company, a corporation under the statutes of Georgia, having its principal place of business in the city of Savannah aforesaid, and the lawful successor and representative, under the statutes of Georgia, of the said Savannah, Albany and Gulf Railroad Company, and liable for the obligations of the same, and the bonds coupons, and writings obligatory aforesaid.

And your petitioner shows that at and before the time of said demand, and the time when said bonds and coupons became due respectively, the said Atlantic and Gulf Railroad Company had failed, and was totally and notoriously insolvent, and that said bonds and coupons, so far as they derived any value or credit from said company, were worthless; and that said company was unable to pay said bonds and coupons, and neglected and refused to pay the same or any part thereof when payment was demanded as aforesaid.

9 And your petitioner shows that upon the failure of said company to pay as aforesaid, he at once gave notice, to wit, upon the days and years last aforesaid, of said demand and refusal to the said defendant, and then and there duly demanded payment of said defendant, and the said defendant then and there failed and refused to pay said bonds or coupons, so due as aforesaid, or any part thereof, or to comply with its said covenant and obligation to guarantee the payment of the said bonds, principal and interest, as the same became due according to the tenor thereof.

And so your petitioner in fact says that the said The Mayor and Aldermen of the City of Savannah, although requested so to do, has not kept the said covenants or complied with the writings obligatory so by it made as aforesaid, or paid the said amounts or any part thereof, but has broken the same, and to keep the same with your petitioner has wholly neglected and refused, and still does neglect and refuse, to your petitioner' damage twenty thousand dollars.

10 And thereupon your petitioner brings suit and prays process may issue requiring the said defendant to be and appear at the next term of said court, to be held in the city of Savannah, on the second Monday in April (1879) next, to answer in the premises.

GEO. A. MERCER,
Plaintiff's Att'y.

11 (Copy.)

No. 457.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

STATE OF GEORGIA:

12 For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 457 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to bearer seventeen $\frac{50}{100}$ dollars, being the interest
13 for 6 months on bond No. 457 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 457 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 457 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

14 (Copy.)

No. 548.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1879.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

STATE OF GEORGIA:

15 For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the term thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6

months on bond No. 548 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 548 for $500, payable at the company's office
16 in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 548 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 548 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

17 (Copy.)

No. 547.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany & Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany & Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*
D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

18 (Endorsed:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the

within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 547 for $500, payable at the company's office in Savannah July 1st, 1877.

17.50.] D. MACDONALD, *Treasurer.*

19 Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 547 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{5}{100}$ dollars, being the interest for 6 months on bond No. 547 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 547 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

20 (Copy.)

No. 456.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their presi-

dent and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

21 (Endorsed:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 546 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

22 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 456 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 546 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 546 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

23 (Copy.)

No. 545.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany & Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany & Gulf

Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany, and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCRIVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

24 (Endorsed:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 545 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

25 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 545 for $500, payable at the company's office in Savannah January 1, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 545 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6

months on bond No. 545 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

26 (Copy.)

No. 110.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, I. K. Teft, trustee, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*
D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

27 (Endorsed:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.
[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:
EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 110 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

28 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest

for 6 months on bond No. 110 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{5}{100}$ dollars, being the interest for 6 months on bond No. 110 for $500, payable at , company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No 110 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

29 (Copy.)

No. 109.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Co. hereby acknowledges to owe, and binds itself to pay, I. K. Teft, trustee, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

30 (Endorsed:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 109 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

31 There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 109 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 109 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 109 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

32 (Copy.)

No. 108.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these *here* presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, I. K. Teft, trustee, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCRIVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

33 STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 108 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MCDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

34 There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 108 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 108 for $500, payable at the company's office in. Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 108 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

35 (Copy.)

No. 107.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, I. K. Teft, trustee, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of

the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCRIVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

36 STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

WDWARD G. WILSON,
Clerk of Council.

Coupons attached to said bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 107 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

37 There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 107 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 107 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 107 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

38 (Copy.)

No. 106.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, I. K. Teft, trustee, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCRIVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin :) Five hundred dollars.

(Endorsed :)

39 STATE OF GEORGIA :

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest :

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 106 for $500, payable at the company's office in Savannah, July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

40 There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 106 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany and Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 106 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany and Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 106 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

41 (Copy.)

No. 461.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

42 (Endorsed:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6

months on bond No. 461 for $500, payable at the company's office in Savannah January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

43 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 461 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 461 for $500, payable at the company's office in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 461 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the in-
44 terest for 6 months on bond No. 461 for $500, payable at the company's office in Savannah January 1st 1879.
$17.50.] D. MACDONALD, *Treasurer.*

45 (Copy.)

No. 533.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savanna', Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annext coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

2920——2

(Endorsed:)

46 STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and the hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 533 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

47 There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 533 for $500, payable at the Company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Company.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 533 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 month' on bond No. 533 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 533 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

48 (Copy.)

No. 534.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful/ money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

STATE OF GEORGIA:

49 For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 534 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the in-
50 terest for 6 months on bond No. 534 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6

months on bond No. 534 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 534 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 534 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

51 (Copy.)

No. 553.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

STATE OF GEORGIA:

52 For value received, the Mayor and Aldermen of the City of Savannah, and the hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Atttest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 553 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest
53 for 6 months on bond No. 553, for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 553 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 553 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 553 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

54 Copy.

No. 444.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office, in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their presi-

dent and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(Endorsed:)

STATE OF GEORGIA:

55 For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor, with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to the above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 444 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the in-
56 terest for 6 months on bond No. 444 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 444 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 444 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 444 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

57 (Copy.)

No. 446.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

58 STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 446 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the in-
59 terest for 6 months on bond No. 446 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 446 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 446 for $500, payable at the company's office in Savannah July 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 446 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

60 (Copy.)

No. 447.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

STATE OF GEORGIA:

61 For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.
[SEAL OF CITY.] THOMAS TURNER, *Mayor.*

Attest:
EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 447 for $500, payable at the company's office in Savannah January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest
62 for 6 months on bond No. 447 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 447 for $500, payable at the company's office in Savannah January 1st 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 447 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 447 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

63 (Copy.)

No. 335.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, to Chas. F. Mills, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per

annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

64 STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bonds.

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 335 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

65 There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 335 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 335 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 335 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 355 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

66 (Copy.)

No. 380.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, to Chas. F. Mills, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsed:)

STATE OF GEORGIA:

67 For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporations affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons attached to above bond.

Savannah, Albany & Gulf Railroad Co.

There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 380 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

68 There is due the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 380 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 380 for $500, payable at the company's office in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 380 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 380 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

69 UNITED STATES OF AMERICA,
Southern District of Georgia:

In the circuit court of the United States for the southern district of Georgia.

EUGENE KELLY
vs.
THE MAYOR AND ALDERMEN OF THE CITY of Savannah.

The President of the United States to the marshal of the district of Georgia, greeting:

The defendant, The Mayor and Aldermen of the City of Savannah, is hereby required, personally or by attorney, to be and appear at the next term of said court, to be held in the city of Savannah, on the second Monday of April next, then and there to answer the plaintiff in an action , as in default thereof the said court will proceed as to justice shall appertain.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, at Savannah, in said district, this 24th day of March, in the year of our Lord one thousand eight hundred and seventy-nine.

[L. S. OF THE COURT.] GEORGE A. MERCER,
Plaintiff's Attorney.

70 (Endorsed:) No. 441. C. L. In the circuit court of the United States for the southern district of Georgia, April term, 1872. Eugene Kelly versus The Mayor and Aldermen of the City of Savannah. Verdict and judgment within. Filed the 24th day of March, 1879. Willard P. Ward, clerk. George A. Mercer, pl'ff's att'y.

Acknowledgment of service.

Due & legal service ack'w'd; copy, process, & all further notice waived this 27th M'ch, 1879.

WM. D. HARDEN,
Def't's Att'y.

Defendant's pleas.

71 The defendant, The Mayor & Aldermen of the City of Savannah, by its attorneys, comes and defends the wrong and injury, where, &c., and says that it is not indebted to the said plaintiff in manner and form as the said plaintiff has declared against it; and of this it puts itself upon the country.

And for a further plea in this behalf the said defendant says that the said supposed writings obligatory of the said defendant endorsed in said bonds are not its deed, because it says that the said supposed writings obligatory were made without authority of law, and were at the time of the making of the same, and still are, utterly void; and of this the said defendant prays the judgment of the court andputs itself upon the country.

And for a further plea in this behalf the said defendant says that the said supposed writings obligatory of the said defendant endorsed on said bonds are not its deed, because it says that the same were made without any consideration moving to the said defendant therefor, of which the said plaintiff, at and before the time of his becoming the bearer thereof, had due notice; and of this it prays the judgment of the court and puts itself upon the country.

And for a further plea in this behalf the said defendant says that
72 it ought not to be charged with the said debt by virtue of the said supposed writings obligatory, because it says that the said writings obligatory were made without any authority of law, and were at the time of the making of the same, and still are, utterly void; and were made without any consideration moving to this defendant therefor, and were not made for value received, and were not made for works of internal improvement, and were not issued by the said defendant.

And this the said defendant is ready to verify, wherefore it prays judgment if it ought to be charged with the said debt by virtue of the said supposed writings obligatory; and of this it puts itself upon the country.

WM. D. HARDEN,
Corporation Att'y.

GEORGIA, CHATHAM COUNTY,
Southern District Ga., ss:

You, John F. Wheaton, do swear that you are the mayor of the city of Savannah, and the agent of the defendant in the above stated case to

make this affidavit, and that the foregoing defence is true, to the best of your knowledge and belief. So help you God.

JOHN F. WHEATON,
Mayor City of Savannah.

Sworn to and subscribed before me this sixth day of Nov., 1879.

R. D. WALKER, JR.,
Notary Public, C. C. Ga.

73 (Endorsed:) In circ't c't U. S. so. dist. Ga. Eugene Kelly v. Mayor & Ald. City of Savannah, def't's pleas. Filed Nov. 6, 1879. W. M. Hayward, dep. clerk. W. D. Harden, corp. att'y. A. R. Lawton, W. S. Chisholm, def't's att'ys.

Agreement as to jury trial.

We, the undersigned, attorneys of record in the above case, hereby stipulate and agree that we will waive a trial by jury in the above case, and that all issues of fact in said case shall be tried and determined by the court without the intervention of a jury, in accordance with sections 649 and 700 of the Revised Statute of the United States.

A. R. LAWTON,
Attorney for Def't.
W. S. CHISHOLM,
Attorney for Def't.
GEO. A. MERCER,
Attorney for Plaintiff.

(Endorsed:) In the circuit court of the U. S. for the so. dist. of Geo. Nov'r term, 1879. Eugene Kelly vs. The Mayor & Aldermen of Savannah. Stipulation. Filed Nov. 22nd, 1879. W. P. Ward, clerk.

74 A proclamation by mayor.

Whereas council, at the last meeting, authorized the mayor to endorse bonds of the Savannah, Albany and Gulf Railroad to the amount of three hundred thousand dollars, and to call a public meeting of the citizens of Savannah to ratify the action of the board in case he deemed such endorsement to be illegal:

Now, I, Thomas M. Turner, mayor of the city of Savannah and hamlets thereof, believing that the spirit of the legislature act would be violated unless a public meeting was called to sanction the endorsement of such bonds, do hereby issue this my proclamation, calling a public meeting of the citizens of Savannah, at the council chamber, in the Exchange, on Saturday next, at 12 o'clock m., for the purpose of considering the propriety of the city's endorsing the bonds of the Savannah, Albany and Gulf Railroad to the amount of three hundred thousand dollars.

Given under my hand and corporate seal of said city this 11th day of May, 1859.

[C. S.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON, *C. C.*

(Endorsed:) U. S. cir. court so. dist. of Ga. Eugene Kelly vs.
75 Mayor and Aldermen, City of Savannah. Mayor's proclamation. Filed Nov. 24, 1879. W. P. Ward, clerk.

Acts of December 24th, 1825.

SECTION 8. That the said mayor and aldermen, or a majority of them, shall have the power and authority to borrow money or contract loans for the use of the city, both from bodies corporate or from individuals either residing in or out of the State, and to pledge the funds or property of the corporation of the city of Savannah and the hamlets thereof, for the redemption of such loan or loans; and also shall have power to purchase any real or personal estate for the use and benefit of the corporation, and sell and dispose of all or any part of the property, domain, land, lots or any personal property to the said corporation belonging or appertaining by lease for years or fee-simple, as to the said mayor or aldermen, or a majority of them, shall seem meet and proper.

Act of Dec. 27th, 1838.

SECTION 5. That mayor and aldermen of said city be, and they are hereby, authorized and empowered to obtain money on loan, on the faith and credit of said city, for the purposes of contributing to works of
76 internal improvement.

Acts of Dec. 8th, 1849.

SECTION 3. The mayor and aldermen of the city of Savannah and hamlets thereof, be, and they are hereby, invested with full power and authority from time to time to make, ordain, and establish by-laws, rules, regulations, and ordinances, as shall appear to them requisite for the security, welfare, and convenience of said city, or for preserving health, peace, and good government within the present or future limits of the same; and that the said mayor and aldermen be, and they are hereby, also vested with full power and authority to make such assessments and levy such taxes on the inhabitants of said city or those who hold taxable property within the same, for the safety benefit, convenience, and advantage of said city, as shall appear to them expedient, and enforce the payment of any and all such assessments and taxes by the proper officers of said corporation in the same manner as the payment of the assessment, or taxes of the State is enforced.

77 Acts of March 4th, 1856.

SECTION 8. And whereas doubts have been entertained whether certain bonds issued and disposed of by the city of Savannah for internal improvements were legal and valid, therefore be it further enacted that all bonds heretofore issued by the constituted authorities of the city of Savannah are hereby declared legal and valid, and from (and after the passage of this act, the mayor and aldermen of the city of Savannah and the hamlets thereof, upon the recommendation of a public meeting of the citizens of Savannah called for that purpose, shall have power and authority to

cause bonds to be issued and disposed of in such manner as they may direct for the purpose of internal improvement) which bonds so issued shall be legal and valid.

(Endorsed:) U. S. circuit court so' dist. of Georgia. Eugene Kelly vs. Mayor & Aldermen of the City of Savannah. Copy of acts of gen. ass., 1825, 1838, 1849, 1856. Filed Nov. 25, 1879. W. P. Ward, clerk.

Amended plea.

78 And for a further plea in this behalf the said defendant says that the said plaintiff ought not to have or maintain his aforesaid action against it, because this defendant says that the said alleged writings obligatory were made under and by virtue of the following resolutions and proceedings:

OFFICE S., A. & G. R. R.,
Savannah, March 16, 1858.

At a meeting of the board of directors of the Savannah, Albany & Gulf Railroad held this day, Mr. Barton offered the following resolutions, which were adopted:

"Resolved, That the president be authorized to issue bonds of the company to the amount of one hundred and fifty thousand dollars ($150,000), if so much be necessary, having twenty (20) years to run, and bearing seven (7) per centum interest, payable semi-annually, and to apply the same to the discharge of the debts of the company now due.

"Resolved, further, That a committee, to consist of three, of which the president shall be one, be appointed to apply to the city council to endorse the bonds to be issued by *by* this committee, said committee to consist Doctor J. P. Screven, Col. F. S. Barton, and John W. Anderson, esq."

79 OFFICE S., A. & G. R. R.,
Savannah, Apr. 29th, 1858.

At a meeting of the board of directors of the Savannah, Albany & Gulf Railroad held this day, Mr. Charles Green offered the following resolution:

"Resolved, That the resolution of Mr. Barton, at a meeting of 16 March, 1858, authorizing the president to issue bonds to the extent of one hundred and fifty thousand dollars ($150,000) be amended by extending the amount to three hundred thousand dollars ($300,000) under the conditions and stipulations contained in the said resolutions."

OFFICE S., A. & G. R. R.
Savannah, Apr. 29, 1859.

At a meeting of the board of directors of the Savannah, Albany & Gulf Railroad held this day, Mr. Barton offered the following resolution, which was adopted:

"Resolved, That the resolution passed on the 16th of March, 1858, authorizing the president to issue the bonds of this company to the amount of one hundred and fifty thousand dollars ($150,000), be amended so as to authorize the issue of bonds to the amount of three hundred thousand dollars ($300,000) if the same be necessary, which amount shall not be exceeded without the further action of this board."

80 SAVANNAH, 28 *Apr.*, 1859.

Solomon Cohen, Fransis S. Barton, and John W. Anderson, esqrs., appeared before the board (city council), and in behalf of the Savannah, Albany & Gulf Railroad submitted the foregoing resolutions, whereupon, after hearing a few remarks from Solomon Cohen and F. S. Barton, esqrs., Alderman Guerard offered the following resolution:

"Resolved, That a committee of three be appointed by the mayor to consider the application of the Savannah, Albany & Gulf R. R'd for the endorsement by the city of the bonds for $300,000."

Alderman Boston offered the following amendment, which was adopted, viz:

"Resolved, That his honor the mayor be authorized to endorse the bonds of the Savannah, Albany & Gulf R. R. to the sum of $300,000."

Alderman Falligant offered the following resolution, viz:

"Resolved, That his honor the mayor should he deem it illegal to endorse the bonds of the Albany & Gulf R. R. Co., be authorized to call a public meeting of the citizens of Savannah, to ratify the action of this board, and, if legal, that he be authorized to grant the request of the board of directors to endorse the bonds of the company to the amount of $300,000."

81 Alderman Guerard offered the following amendment, viz:

"And be it further resolved, That the mayor be authorized and empowered to arrange all details in reference to the form of such bonds, and the time and place at which interest shall be paid, in conjunction with said railroad."

The resolution and amendment were unanimously adopted.

Public meeting.

In pursuance of the proclamation of his honor the mayor a meeting of the citizens of Savannah was held in the council chamber of the Exchange, on Saturday, the 14th inst., to take into consideration the propriety of authorizing the city to endorse the bonds of the Savannah, Albany & Gulf R. R. to the am't of $300,000.

On motion of William Duncan, esq., Hon. Thomas M. Turner was called to the chair, and W. T. Thompson appointed secretary.

Maj. A. Porter addressed the meeting in favor of the proposed indorsement of the bonds by the city, and offered the following preamble and resolutions:

"Whereas the Savannah, Albany & Gulf R. R. Co. made application to the city council at a meeting, held 28th of April, 1859, to guaran-

82 tee or endorse the bonds of said railroad co. to the amount of $300,000; and

"Whereas the city council at said meeting did, by vote, authorize the mayor to endorse the said bonds, and if he had any doubts of the legality of such endorsement to call a public meeting of the citizens to ratify the action of council; and

"Whereas the mayor, by his proclamation dated the 11th of May, has called this meeting of citizens for that purpose; be it therefore

"Resolved, That this meeting hereby ratifies the vote of council and authorizes the mayor and aldermen of the city of Savannah to guarantee

the bonds of the Savannah, Albany & Gulf R. R. Co. to an amount not exceeding $300,000, and to adopt the necessary steps to carry the same into effect."

The preamble and resolutions being seconded, were unanimously passed.

On motion, the meeting adjourned.

THOMAS M. TURNER,
Chairman.

W. T. THOMPSON, *Sec'ty.*

OFFICE S., A. & G. R. R.,
Savannah, May 18th, 1859.

At a meeting of the board of directors of the Savannah, Albany & Gulf R. R. Co., held this day, on motion of the vice-president it was ordered, that the proceedings, as published, of the city
83 council of Savannah on the 28th ulto., and a public meeting of the citizens on the 14th inst., be engrossed in the minutes of this company.

The president then stated that the bonds of the company to the am't of $300,000 had been prepared and received, and asked for instructions of the board in reference to the disposition to be made of them.

On motion of Mr. Chas. Green, it was resolved, that as many of the new bonds, at par, as may be necessary to secure the debts due to the Merchants & Planters' Bank and the Bank of the State, be handed to the respective cashiers of these institutions upon their surrendering the guaranty of Doctor Screven on % of the Sav'h, Albany & Gulf R. R.

Resolved, also, That when the bonds are perfected a sufficient am't be paid over to Dr. Screven, at par, to extinguish the debt due by the company to him with interest.

And this defendant says that the said resolutions and proceedings were not authorized by any law of the State of Georgia, and that the said supposed obligations of the said defendant were without authority of
84 law, and are null and void, of all of which the said plaintiff had due notice, and this the said defendant is ready to verify. Wherefore it prays judgment if the said plaintiff ought to have or maintain his action against it, and of this the defendant puts itself upon the country.

W. S. CHISHOLM,
Def'ts Attorney.

And for a further plea in this behalf the said defendant says that the said plaintiff ought not to have or maintain his aforesaid action against it, because this defendant says that the said supposed obligation of this defendant was a guaranty to pay the said bonds made and issued by the said Savannah, Albany & Gulf Railroad Company; that at the time the said supposed guarantees of this defendant were endorsed upon said bonds the said Savannah, Albany & Gulf Railroad Company was solvent and able to pay the said bonds, according to the tenor and effect thereof; that on the 18th of April, 1863, by an act of the general assembly of the State of Georgia, the said Savannah, Albany & Gulf Railroad was authorized to consolidate with the Atlantic & Gulf Railroad Company; that by virtue of said act the said two companies afterwards, and in the
85 said year 1863, did consolidate their stocks, and the said new company, the Atlantic & Gulf Railroad Company, came into existence

and became liable to pay the said bonds according to their tenor and effect, of all of which the said plaintiff had due notice; that since the said consolidation the said plaintiff has accepted the said new company as his debtor and collected the coupons which were attached to said bonds from the said new company without any demand on this defendant until the said 1st day of January, 1877, when the said new company became insolvent; that after said consolidation the said new company created liens and made mortgages on all the property of the said Savannah, Albany & Gulf Railroad, whereby all the said property was appropriated to the payment of the debts of the said new company to the exclusion of the said bonds and coupons mentioned in the said declaration; that all said acts and doings of the said two railroad corporations and of the said plaintiff were without the consent of this defendant, and without the recommendation of a public meeting of said citizens called for that purpose; and that thereby the nature of the said contract has been changed, the risk of this defendant has been increased, and it has been exposed to greater liability. And this the said defendant is ready to verify. Wherefore it prays judg-
86 ment if the said plaintiff ought to have or maintain his action against it, and of this the defendant puts itself upon the country.

WM. D. HARDEN,
Corp. Att'y.
A. R. LAWTON,
W. S. CHISHOLM,
Att'ys for Def't.

(Endorsed:) In the circuit court of the United States for the southern district of Georgia. April term, 1879. Eugene Kelly vs. The Mayor & Aldermen of the City of Savannah. Amended plea. Filed Nov. 26, 1879. W. M. Heyward, dep. clerk.

87 And afterwards, to wit, on the 26th day of November, 1879, the following verdict was rendered in said cause.

Verdict.

We, the jury, find a verdict in favor of the plaintiff against the said defendant, the Mayor and Aldermen of the City of Savannah, for the principal sum of nine thousand five hundred dollars, with interest thereon from the first day of January, eighteen hundred and seventy-nine; one hundred and fifty-seven dollars and fifty cents ($157.50) for interest due January first, 1877, as per the coupons annexed to said bonds sued upon; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due July first, 1877, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due January first, 1878, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due July first, 1878, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due January first, 1879, as per said annexed coupons, besides interest upon each one of said coupons annexed to said bonds, and sued upon from the time each became due and payable respectively, and the costs of suit to be taxed by the clerk.

November 26th, 1879.

FRANK WINTER,
Foreman.

scription by the S., A. & G. to the stock of the A. & G., leaving $67,000, which were expended on account of rolling stock, Altamaha embankment, and the depot here in Savannah. All the liabilities to the banks
93 were for building the R. R., as far as I know. They had advanced for construction and other purposes. The A. & G. R. R. had been commenced at that time; it was completed after the war. It reached Thomasville in March, 1861. The bonds brought par, as far as I know. I think the bonds would not have sold at par without the guaranty of the city. The two roads were merged in 1863. After that they acted under one incorporation. The consolidated roads, when the bonds became due, were insolvent; neither road able to pay them; both roads considered as merged. The S., A. & G. had no officers. It was understood that the A. & G. R. R. could not and did not pay any of the bonds. When the bonds became due in 1878 the consolidated roads was in the hands of receivers appointed by this court, and all the employees were employed by the receivers, and not by the corporation. The city held $1,000,000 stock in the S., A. & G. R.R. January 1st, 1859. The city was always represented at the meetings of the stockholders by a commissioner. The city subscribed $200,000 to the stock of the A. & G. before consolidation. I think there is no doubt that the roads have added much to the prosperity of the city. The late president was my father. He had advanced money for the benefit of the road. I did not see the money nor the expenditures, but believe it was so. Without the guaranty, in my opinion, the bonds were
94 not of great value; that is, without the city's endorsement. I suppose that if the bonds could have been readily disposed of without it the city would not have been asked to guarantee them. There were no mortgages on the road at that time.

The board of directors of the S., A. & G. R. R. in 1859 were John Screven, &c., ( ), all of them as good citizens as any in town. I became acting president a brief time after the bonds were disposed of. A short time after that my father was taken sick with what proved to be his last illness, and I was elected acting president and became the president in the following January; was not president when the bonds were issued; was not a director previous to the issuing of the bonds; I know nothing, of my own knowledge, about the bonds. The bonds will explain themselves. The Altamaha embankment was an expensive work, a heavy embankment, 40 feet high in some places. After the special appropriation of the bonds the balance of the proceeds com'ingled with the general funds of the company, & was paid out like the rest of those general funds, but there would have been no difficulty in separating it; it was regarded as a sacred fund, though it was mixed with the general funds. Before I became president some bonds were issued by the S., A. & G. R. R.; $7,000 to W. I. Way, $1,200 to G. W. Anderson. When I was
95 president, besides these $300,000, there were $41,200 bonds issued without endorsement and without mortgage, and were sold at par in exchange for land, and they were paid. The original line of the S., A. & G. R. R. up to the time of this endorsement was the line between Sa'h and the A. & G. R. R. It was intended that the line of the S., A. & G. R. R. should occupy the line now occupied by the A. & G. R. R. The A. & G. R. R. then had a different projection, but both companies were equal in their intentions to reach the Chattahoochee River. $100,000 of

the endorsed bonds were taken to pay the subscription of the S., A. & G. R. R. to the A. & G. R. R. The subscription was $200,000. No proceeds of any of these bonds, so far as I know, could have gone into the city treasury; they must have been appropriated otherwise. At the stockholders' meeting the city was represented as a stockholder by a commissioner. Think that at the meeting which authorized the consolidation the city only voted as a stockholder through its commissioner. There was no public meeting of the citizens of Savannah called for the purpose of authorizing this vote. The State of Georgia owned stock in the A. & G. R. R. to amount of $1,000,000, not in S., A. & G. R. R. The $41,000 bonds spoken of above were delivered for land at par.

The guaranty was, I think, contemporaneous with the issue of the bonds. Do not think there can be any question about it, as I do not believe any one would have taken the bonds without it. The State became
96 owner of stock in the A. & G. R. R. before the city guaranteed the bonds of the S. A. & G. The State's stock was not in the road whose bonds were guaranteed. All coupons were paid by A. & G. R. R. Co. out of its funds until Jan'y 1st, '77. The city of Savannah has never paid any of these coupons. Never heard of the city's denying its liability until the R. R. failed to pay its coupons. The gross receipts of S., A. & G. R. R. in 1859 were $113,941.38 ($49,210 with am't due for mail services), and this went with the general fund. There was an understanding that the $67,000 was to be appropriated as intended. Cannot say that the identical money raised on the bonds was used in building depot or Altamaha embankment. The money was mixed up & not kept separately, & bills were paid as they came in. All the general funds in the bank were expended in paying expenses of road, buying property in and out of the city, paying workmen, &c. The S., A. & G. R. R. Co., at the time these bonds and coupons became due, had no offices or officers distinct from the A. & G. R. R. Co. The A. & G. R. R. Co. at that time was in the hands of the receivers appointed by this court, and had no office or officers except its corporate officers to preserve the corporate organization. The failure of the A. & G. R. R. Co. and the inability of either road to pay said bonds and coupons when due was notorious in the city of Savannah. The other bonds issued were delivered to parties selling lands to the co., said parties agreeing to sell them lands for a certain sum to be paid
97 in the bonds of the company at par.

VI. A. L. HARTRIDGE:

Am a broker; a stock broker since eighteen hundred and sixty-seven. Have handled securities in this and for other markets. The guaranty of the city is all that gives credit to these bonds. The bonds without it would have been worth something up to eighteen hundred and seventy-five, but would not have been of half the value as with the endorsement. When it became known that the city denied its liability they fell from 70 to 30, and lower. They always ruled higher than the consolidated mortgage bonds, and nearly as high as the sectional bonds stood, about the same as straight city bonds. The R. R. has benefitted the city very much. Jobbing trade done largely on account of this road, besides cotton and naval stores. Think the R. R. added much to the prosperity of the city.

VII. The A. & G. was insolvent on Jan'y 1st, 1877, and has since been sold out on foreclosure of mortgages placed on the property by the

scription by the S., A. & G. to the stock of the A. & G., leaving $67,000, which were expended on account of rolling stock, Altamaha embankment, and the depot here in Savannah. All the liabilities to the banks
93 were for building the R. R., as far as I know. They had advanced for construction and other purposes. The A. & G. R. R. had been commenced at that time; it was completed after the war. It reached Thomasville in March, 1861. The bonds brought par, as far as I know. I think the bonds would not have sold at par without the guaranty of the city. The two roads were merged in 1863. After that they acted under one incorporation. The consolidated roads, when the bonds became due, were insolvent; neither road able to pay them; both roads considered as merged. The S., A. & G. had no officers. It was understood that the A. & G. R. R. could not and did not pay any of the bonds. When the bonds became due in 1878 the consolidated roads was in the hands of receivers appointed by this court, and all the employees were employed by the receivers, and not by the corporation. The city held $1,000,000 stock in the S., A. & G. R. R. January 1st, 1859. The city was always represented at the meetings of the stockholders by a commissioner. The city subscribed $200,000 to the stock of the A. & G. before consolidation. I think there is no doubt that the roads have added much to the prosperity of the city. The late president was my father. He had advanced money for the benefit of the road. I did not see the money nor the expenditures, but believe it was so. Without the guaranty, in my opinion, the bonds were not of great value; that is, without the city's endorsement. I sup-
94 pose that if the bonds could have been readily disposed of without it the city would not have been asked to guarantee them. There were no mortgages on the road at that time.

The board of directors of the S., A. & G. R. R. in 1859 were John Screven, &c., ( ), all of them as good citizens as any in town. I became acting president a brief time after the bonds were disposed of. A short time after that my father was taken sick with what proved to be his last illness, and I was elected acting president and became the president in the following January; was not president when the bonds were issued; was not a director previous to the issuing of the bonds; I know nothing, of my own knowledge, about the bonds. The bonds will explain themselves. The Altamaha embankment was an expensive work, a heavy embankment, 40 feet high in some places. After the special appropriation of the bonds the balance of the proceeds com'ingled with the general funds of the company, & was paid out like the rest of those general funds, but there would have been no difficulty in separating it; it was regarded as a sacred fund, though it was mixed with the general funds. Before I became president some bonds were issued by the S., A. & G. R. R.; $7,000 to W. I. Way, $1,200 to G. W. Anderson. When I was president, besides these $300,000, there were $41,200 bonds issued
95 without endorsement and without mortgage, and were sold at par in exchange for land, and they were paid. The original line of the S., A. & G. R. R. up to the time of this endorsement was the line between Sav'h and the A. & G. R. R. It was intended that the line of the S., A. & G. R. R. should occupy the line now occupied by the A. & G. R. R. The A. & G. R. R. then had a different projection, but both companies were equal in their intentions to reach the Chattahoochee River. $100,000 of

the endorsed bonds were taken to pay the subscription of the S., A. & G. R. R. to the A. & G. R. R. The subscription was $200,000. No proceeds of any of these bonds, so far as I know, could have gone into the city treasury; they must have been appropriated otherwise. At the stockholders' meeting the city was represented as a stockholder by a commissioner. Think that at the meeting which authorized the consolidation the city only voted as a stockholder through its commissioner. There was no public meeting of the citizens of Savannah called for the purpose of authorizing this vote. The State of Georgia owned stock in the A. & G. R. R. to amount of $1,000,000, not in S., A. & G. R. R. The $41,000 bonds spoken of above were delivered for land at par.

The guaranty was, I think, contemporaneous with the issue of the bonds. Do not think there can be any question about it, as I do not believe any one would have taken the bonds without it. The State became
96 owner of stock in the A. & G. R. R. before the city guaranteed the bonds of the S. A. & G. The State's stock was not in the road whose bonds were guaranteed. All coupons were paid by A. & G. R. R. Co. out of its funds until Jan'y 1st, '77. The city of Savannah has never paid any of these coupons. Never heard of the city's denying its liability until the R. R. failed to pay its coupons. The gross receipts of S., A. & G. R. R. in 1859 were $113,941.38 ($49,210 with am't due for mail services), and this went with the general fund. There was an understanding that the $67,000 was to be appropriated as intended. Cannot say that the identical money raised on the bonds was used in building depot or Altamaha embankment. The money was mixed up & not kept separately, & bills were paid as they came in. All the general funds in the bank were expended in paying expenses of road, buying property in and out of the city, paying workmen, &c. The S., A. & G. R. R. Co., at the time these bonds and coupons became due, had no offices or officers distinct from the A. & G. R. R. Co. The A. & G. R. R. Co. at that time was in the hands of the receivers appointed by this court, and had no office or officers except its corporate officers to preserve the corporate organization. The failure of the A. & G. R. R. Co. and the inability of either road to pay said bonds and coupons when due was notorious in the city of Savannah. The other bonds issued were delivered to parties selling lands to the co., said parties agreeing to sell them lands for a certain sum to be paid
97 in the bonds of the company at par.

VI. A. L. HARTRIDGE:

Am a broker; a stock broker since eighteen hundred and sixty-seven. Have handled securities in this and for other markets. The guaranty of the city is all that gives credit to these bonds. The bonds without it would have been worth something up to eighteen hundred and seventy-five, but would not have been of half the value as with the endorsement. When it became known that the city denied its liability they fell from 70 to 30, and lower. They always ruled higher than the consolidated mortgage bonds, and nearly as high as the sectional bonds stood, about the same as straight city bonds. The R. R. has benefitted the city very much. Jobbing trade done largely on account of this road, besides cotton and naval stores. Think the R. R. added much to the prosperity of the city.

VII. The A. & G. was insolvent on Jan'y 1st, 1877, and has since been sold out on foreclosure of mortgages placed on the property by the

A. & G. after consolidation, and executed to M. K. Jesup & Eugene Kelly et al., as trustees, complainants in foreclosure.

VIII. The following extracts from the record in the case of Butler et al. vs. The Mayor and Aldermen of the city of Savannah were
98 introduced in evidence by plaintiff. Filed 9 July, 1877, to Oct. term, Chat. supr. court, and answer was filed July 20, '77, was dismissed by compl'ts at February term, 1879:

"And thereupon your orators say that the coupon bonds of the city of Savannah which are now outstanding, & which amount, in the aggregate, to $3,473,800 were all of them issued without authority of law, & are invalid. Here reference is praved to a schedule, to be found on page 5 of Exhibit A, which gives a full description of the said bonds, with their date & the purposes of their issue. From this it appears that during the year 1853 there were issued coupon bonds to the aggregate amount of $1,204,500; that is to say, for the construction of water-works, $198,000; for Savannah Gas-Light Company, $5,000; for Savannah River improvements, $64,500, and for two subscription' to the Savannah, Albany & Gulf Railroad Company, $937,000. While there are special grounds of defence against several of these classes of bonds as having been issued for purposes not sanctioned by law, it is sufficient to say, that during the said year 1853, the municipal authorities of Savannah had no power to issue coupon bonds for any purpose whatsoever. Your orator being advised that the power to borrow money 'for the use of the city,' etc., etc., did not involve the further power of contracting loans in the form of coupon bonds; negotiable securities of a peculiar character, passing and designed to pass from hand to hand like money.

99 "From the 1st of February, 1866, to the 2nd of July, 1873, there were issued coupon bonds to the amount of $2,269,300; that is to say, for funding coupons prior to 1866 & for other purposes, $368,800; for redemption of bonds which had fallen due, $767,000; for improvements in the city of Savannah, $534,000; for harbor and other improvements, $500,000, and to meet the outstanding indebtedness of the city, $300,000. Although at the dates of these several issues the municipal authorities of Savannah had the power given for the first time by the existing code of contracting loans, to be made payable in coupon bonds, the exercise of that power was confined to a single purpose, namely, to pay subscriptions to works of internal improvement. It consequently follows that none of the last-mentioned issues of bonds, which have so greatly and so rapidly increased the debt of the city, were authorized by this or by any law.

"9. It appears from the schedule 'liabilities,' to be found on the first page of Exhibit A, that the municipal authorities of the city of Savannah have undertaken to place the city's endorsement on bonds of the A'lantic and Gulf Railroad, which are now in default for interest, and the principal of which will be due January 1st, 1879, to the amount of $300,000.

100 Your orators are advised, and accordingly aver, that the said endorsement was wholly without authority of law, and is null and void."

EXHIBIT A.

Report of Finance Committee, Sav'h, Ga., May 31, '77.

The finance committee having completed their labors, beg to submit, as the result of their investigations, the following exhibit of the financial condition of the city, present and prospective, at this date:

LIABILITIES.

Bonded debt, as per table, &c		$3,473,800 00
Mayor's notes.		
Commissioners of pilotage, Sav'h	2,140 00	
Eugene Kelly & Co., New York	50,000 00	
National City Bank "	50,000 00	
Merch'ts Nat. Bank, Sav'h	57,000 00	
Southern B'k, State of Ga., "	20,000 00	
Sav'h B'k & Trust Co., "	18,000 00	
" Gas-Light Co., "	22,731 82	
Total		$219,871 82
H. R. Worthington, new pump at water-w'ks		25,000 00
Coupons past due & unpaid		72,175 00
Interest on past due obligations (estimated)		7,500 00
Total		$3,798,346 82

CONTINGENT LIABILITY.

City's endorsement on bonds of the Atlantic & Gulf Railroad Company, now in default for interest, principal due Jan'y 1st, 1879	$300,000 00
Interest now due and unpaid	10,500 00
Determined and undetermined responsibility	$4,108,846 82

ASSETS.

	12,383 shares	Atlantic & Gulf R. R. stock*	$1,238,300 00
101	1,307 "	Western R. R., of Ala. " †	130,700 00

The following extract from the answer of the Mayor & Ald. of the City of Savannah to allegations contained in above record were also introduced by plaintiff:

"And the defendant admits the exhibit attached to the said bill, purporting to be a copy of a report of the finance committee of council, on those subjects, to be a true copy of said exhibit, and that it correctly sets forth in itself and in the tabular statements embodied therein and appended thereto the several classes of bonds and notes representing the said funded debt, with the dates when the same were issued, and the purposes for

* In the hands of rec'rs, and property not considered more than adequate for mortgage debts.

† Road sold out under foreclosure of mortgage two years since, when stock became worthless.

which they were issued, and the amount of interest payable thereon, and other particulars, sufficient, in connection with the ordinances of the city under which they were issued, the said ordinances as published by authority of this defendant being public laws, to afford a full and clear understanding of the entire subject."

"And the defendant, further answering, says that it entered upon the aforesaid negotiations with the creditors of the city without any inquiry into the character of any class or branch of the said funded debt, or any intention to raise any question with regard to the legality of the same, or any part thereof, and with the sincere
102 desire to include in such compromise as should be ultimately agreed on all its liabilities of that sort, and that it has no desire now to raise any such question, but the contrary; and this defendant avers that it does not know whether any, or, if any, which of the said bonds and notes were issued or given without authority of law, that being as this defendant is advised a mere question of law, and this defendant, in that as in other matters of law arising upon the said bill, submits itself wholly to the decision of the court."

Mayor's proclamation.

A Proclamation.

Whereas council, at the last meeting, authorized the mayor to endorse bonds of the Savannah, Albany & Gulf Railroad to the amount of three hundred thousand dollars, and to call a public meeting of the citizens of Savannah to ratify the action of the board, in case he deemed such endorsement to be illegal.

Now I, Thomas M. Turner, mayor of the city of Savannah and hamlets thereof, believing that the spirit of the legislative act would be violated unless a public meeting was called to sanction the endorsement of such bonds, do hereby issue this my proclamation, calling a public meeting of the citizens of Savannah, at the council chamber, in the exchange, on Saturday next, at 12 o clock m., for the purpose of considering the propriety of the city's endorsing the bonds of the Savannah, Albany and
103 Gulf Railroad to the amount of three hundred thousand dollars.

Given under my hand and corporate seal of said city this 11th day of May, 1859.

[L. S.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON, *C. C.*

Mayor's proclamation. Filed Nov. 24, 1879. W. P. Ward, clerk.

The following are the sections of the acts referred to in the foregoing decision and charge:

Act of Dec'r 27th, 1838.

SECTION 5TH. That the mayor and aldermen of said city be, and they are hereby, authorized and empowered to obtain money on loan on the faith and credit of said city for the purposes of contributing to works of internal improvements.

Act of March 4th, 1856.

SECTION 8TH. And whereas doubts have been entertained whether certain bonds issued and disposed of by the city of Savannah for internal improvements were legal and valid: therefore be it further enacted, that all bonds heretofore issued by the constituted authorities of the city of Savannah are hereby declared legal and valid, and from and after the the passage of this act, the mayor and aldermen of the city of Savannah and the hamlets thereof, upon the recommendation of a public meeting of
104 the citizens of Savannah, called for that purpose, shall have power and authority to cause bonds to be issued and disposed of in such manner as they may direct for purposes of internal improvements, which bonds so issued shall be legal and valid.

Section 9th repeals conflicting laws.

The plaintiff closed.

The defendant introduced no testimony.

Whereupon, after argument, the court instructed the jury as follows:

1. Section 5 of the act of 1838 confers authority upon the mayor and aldermen of the city of Savannah to obtain money on loan on the faith and credit of the city for the purposes of contributing to works of internal improvement, and to issue negotiable bonds for the money so obtained.

2. Section 8 of the act of 1856 confers power upon the mayor and aldermen of the city of Savannah to issue negotiable bonds for the purpose and upon the terms and conditions therein set forth.

3. I incline to the opinion that section 5 of the act of 1838 is not repealed by the act of 1856, but even if it is, authority to the mayor and aldermen of the city of Savannah to issue negotiable bonds is conferred by section 8 of the said last-named act upon the terms and conditions
105 and for the purposes therein mentioned.

4. Section 5 of said act of 1836, if not repealed, authorized the mayor & aldermen of the city of Savannah to make the guarantee sued on in this case for the purposes of contributing to works of internal improvement.

5. Section 8 of the said act of 1856 authorized the mayor & aldermen of the city of Savannah to make the guarantee sued on in this case, provided the same was made upon the same terms and conditions upon which and for the same purpose for which the said mayor & aldermen were authorized by said section to issue bonds.

6. That the evidence, if credible, showed that there was a valid consideration moving to the mayor & aldermen of the city of Savannah for the guarantee sued on in this case.

7. The recital in the guarantee that it was made for value received, and the fact that said guarantee was under seal, imparted a consideration for the guarantee.

8. That the evidence, if credible, showed that the bonds guaranteed were issued for purposes of internal improvement, with' the meaning of
106 the 8th section of the act of 1856, and for the purposes of contributing to works of internal improvement, with' the meaning of section 5 of the act of 1838.

9. When the power to issue negotiable bonds may be fairly derived from the charter of a municipal corporation, and the power has been exercised

and acquiesced in by the inhabitants and the authorities of the municipality, and negotiable bonds issued under the power have, before maturity, come into the hands of innocent and bona fide holders for value, doubts and ambiguities will be resolved in favour of the power.

10. No actings or doings of the Savannah, A'bany & Gulf Railroad Company or of the Atlantic & Gulf Railroad Company, or of both of them, without the consent of the holder of the bonds guaranteed in this case, can relieve the responsibility of the maker or guarantor of the bonds.

11. If the city of Savannah was a stockholder to the amount of a million of dollars, or other large sum, in the Savannah, Albany & Gulf Railroad Company, and had, as such stockholder, a representative in the board of directors of said railroad company, and such representative assented to the consolidation of the said railroad company with the Atlantic and
107 Gulf Railroad Company, the assent of the city to such consolidation may in this case be inferred from said facts.

12. The plaintiff in this case by going, after said consolidation, to the office of the Atlantic & Gulf Railroad Company, and there receiving payment of some of the coupons belonging to the bonds on which the guarantee sued on in this case was endorsed, did not thereby waive any of his rights derived from said guarantee, either against the Savannah, Albany & Gulf Railroad Company or against the mayor or aldermen of the city of Savannah.

13. The evidence in this case offered by the plaintiff (there being none offered by defendant), if the jury believe it, would justify them in returning a verdict for the plaintiff.

To which opinion and decision of the court and charges to the jury aforesaid, the said defendant, at the time said charge was given and announced, then and there, while the jury were at the bar, excepted, and also at the same time and place excepted separately to each of the said rulings, decisions, and charges.

108 Whereupon the jury then and there, in accordance with the said instructions from the court, rendered a verdict for the plaintiff, as follows:

"We, the jury, find a verdict in favor of the plaintiff against the said defendant, The Mayor and Aldermen of the City of Savannah, for the principal sum of nine thousand five hundred dollars, with interest thereon from the first day of January, eighteen hundred and seventy-nine; one hundred and fifty-seven dollars and fifty cents ($157.50) for interest due January 1st, 1877, as per the coupons annexed to said bonds sued upon; three hundred and thirty-two dollars and fifty cents (332.50) for interest due July 1st, 1877, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due January 1st, 1878, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due July 1st, 1878, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents (332.50) for interest due January 1st, 1879, as per said annexed coupons, besides interest on each one of said coupons annexed to said bonds and sued upon from the time each became due and payable, respectively, and the cost of suit to be taxed by the clerk."

And thereupon the court entered final judgment upon said verdict in favor of said plaintiff against said defendant.

109 To preserve all which matters and things of record in this cause, defendant moves the court that this his bill of exceptions, taken during the trial of this cause, be signed and sealed by the court, and made a part of the record herein during the progress of said trial, which is done accordingly.

W. B. WOODS, [SEAL.]
Judge.

(Endorsed:) In the fifth circuit court of the United States for the southern dist. of Geo. Eugene Kelly vs. The Mayor & Aldermen of the City of Savannah. Suit on sealed guaranties. Bill of exceptions. Filed Dec. 9, 1879. W. P. Ward, clerk.

Assignments of error.

In the Supreme Court of the United States, October term, 1880.

THE MAYOR AND ALDE'MEN OF THE CITY OF Savannah, pl'ffs in error, *and* EUGENE KELLY, DEFENDANT IN ERROR.	Suit on sealed guarantee.

And now the aforesaid The Mayor and Aldermen of the City of Savannah, by Alexander R. Lawton and Walter S. Chisholm, its attorneys, comes and says that in the foregoing record and proceedings there is manifest error in this, to wit:

First. Because the said court erred in deciding and charging as
110 follows: That "section 5 of the act of 1838 confers authority upon The Mayor and Aldermen of the City of Savannah to obtain money on loan on the faith and credit of the city for the purposes of contributing to works of internal improvement, and to issue negotiable bonds for the money so obtained."

Second. Because the said court erred in deciding and charging that "section 8 of the act of 1856 confers power upon The Mayor and Aldermen of the City of Savannah to issue negotiable bonds for the purposes and upon the terms and conditions therein set forth."

Third. Because the said court erred in deciding and charging that "I incline to the opinion that section 5th of the act of 1838 is not repealed by the act of 1856; but even if it is, authority to The Mayor and Aldermen of the City of Savannah to issue negotiable bonds is confirmed by sec. 8 of the said last-named act, upon the terms and conditions and for the purposes therein mentioned."

Fourth. Because the said court erred in deciding and charging that "sec. 5th of the said act of 1838, if not repealed, authorized The Mayor and Aldermen of the City of Savannah to make the guarantee sued on in this case for the purposes of contributing to works of internal improvement."

Fifth. Because the said court erred in deciding and charging that "sec. 8 of the said act of 1856 authorized The Mayor and Alder-
111 men of the of Savannah to make the guarantee sued on in this case, provided the same was made upon the same terms and condi-

tions upon which and for the same purposes for which the said mayor and aldermen were authorized by said section to issue bonds."

Sixth. Because said court erred in deciding and charging "that the evidence, if credible, showed that there was a valid consideration moving to The Mayor and Aldermen of the City of Savannah for the guarantee sued on in this case."

Seventh. Because the said court erred in deciding and charging that "the recital in this guarantee was made for value received, and the fact that said guarantee was under seal imparted a consideration for the guarantee."

Eighth. Because the said court erred in deciding and charging "that the evidence, if credible, showed that the bonds guaranteed were used for purposes of internal improvement within the meaning of the 8th section of the act of 1856, and for the purpose of contributing to works of internal improvement within the meaning of sec. 5th, of the act of 1838."

Ninth. Because the said court erred in deciding and charging that "when the power to issue negotiable bonds may be fairly derived from the charter of a municipal corporation, and the power has been exercised and acquiesced in by the inhabitant' and the authorities of the municipality, and negotiable bonds issued under the power have, before maturity,
112 come into the hands of innocent and bona fide holders for value, doubts and ambiguities will be resolved in favor of the power."

Tenth. Because the said court erred in deciding and charging that "no actings or doings of the Savannah, Albany and Gulf R. R. Company, or of the Atlantic & Gulf R. R. Company, or of both of them, without the consent of the holders of the bonds guaranteed in this case, can relieve the responsibility of the maker or guarantor of these bonds."

Eleventh. Because the said court erred in deciding and charging that "if the City of Savannah was a stockholder to the amount of a million of dollars, or other large sum in the Sav'h, Albany & Gulf R. R. Co., and had, as such stockholder, a representation in the board of directors of said railroad company, and such representation assented to the consolidation of the said R. R. Co. with the A. & G. R. R. Co., the assent of the city to such consolidation may, in this case, be inferred from such facts."

Twelfth. Because the said court erred in deciding and charging that "the plaintiff in this case by going, after said consolidation, to the office of the A. & G. R. R. Co., and there receiving payment of some of the coupons belonging to the bonds on which the guarantee sued on in this case was endorsed, did not thereby waive any of his rights derived from said guarantee, either against the S., A. & G. R. R. Co., or against The Mayor & Aldermen of the City of Sav'h."

113 Thirteenth. Because the said court erred in deciding and charging that "the evidence in this case offered by the pl'ff, (there being none offered by the def'd't), if the jury believe it, would justify them in returning a verdict for the plaintiff."

Fourteenth. Because the said court erred in charging the jury that they should find for the plaintiff, where by law the court should have charged the jury to find a verdict for the defendant, The Mayor and Aldermen of the City of Savannah. Wherefore, and for divers other errors apparent on the face of said record, said plaintiff in error, The Mayor and Aldermen of

the City of Savannah, prays that the aforesaid proceedings be reversed, and said cause be remanded to said circuit court.

A. R. LAWTON,
W. S. CHISHOLM,
Att'ys for Def't in Error.

Acknowledgement of service.

Due and legal service acknowledged of the within assignment of errors & prayer for reversal, copy, and all further service and notice waived as to said assignment of errors.
Dec'r 22, 1879.

GEO. A. MERCER,
Att'y for Eugene Kelly.

(Endorsed:) In the Supreme Court of the U. S., October term, 1880. The Mayor and Aldermen of the City of Savannah, pl'ff in error, *and* Eugene Kelly, def't in error. Suit on sealed guaranties. Assignment of error. Filed Dec. 22. W. M. Heyward, dep. cl'k, U. S circuit court.

114 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States for the fifth circuit and southern district of Georgia, greeting:

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the circuit court before you, or some of you, between Eugene Kelly, plaintiff, and The Mayor and Aldermen of the City of Savannah, defendant, a manifest error hath happened, to the great damage of the said The Mayor and Aldermen of the City of Savannah, as by its complaint appears, and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, and under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected the said Supreme Court may cause further to be done therein to correct that error what of right and according to law and custom of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this ninth day of December, A. D. 1879.

115 [SEAL OF U. S. C. C. GA.] WILLARD P. WARD.

Allowed by me this Dec. 9, 1879.

W. B. WOODS,
U. S. Judge.

Acknowledgement of service.

Due and legal service of the within writ of error acknowledged, and copy lodged with clerk, and all other service waived, this 9th day of December, 1879.

GEO. A. MERCER,
Attorney for Eugene Kelly.

(Endorsed:) Supreme court of the United States, October term, 1880. The Mayor & Aldermen of the City of Savannah, pl'ff's in error, vs. Eugene Kelly, def'd't in error. Suit on sealed guarantees. Writ of error. Filed Dec. 9, 1879. W. P. Ward, clerk U. S. circuit court.

Appeal bond.

Know all men by these presents that we, The Mayor and Aldermen of the City of Savannah, and Daniel G. Purse, are held and firmly bound unto the above-named Eugene Kelly in the sum of five hundred (500) dollars, to paid to the said Eugene Kelly, his executors or administrators, to
116 which payment, well and truly to be made, we bind ourselves and each of us jointly, severally, and firmly, and our and each of our heirs, executors, and administrators by these presents. Sealed with our seals and dated this eighth day of December, 1879.

Whereas the above named, The Mayor and Aldermen of the City of Savannah, hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled cause by the circuit court of the United States for the southern district of Georgia, at the November term thereof, A. D. 1879.

Now therefore the condition of this obligation is such, that if the aforesaid, The Mayor and Aldermen of the City of Savannah, shall prosecute its said writ of error to effect, and answer all damages and costs if it shall fail to make good its plea, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

[SEAL OF CITY.] MAYOR AND ALDERMEN CITY OF SAVANNAH,
Per JOHN F. WHEATON, *Mayor.*
D. G. PURSE.

Attest by—
FRANK E. REBARER,
Clerk of Council.

Executed in presence of—
R. D. WALKER, JR.,
Notary Public, C. C. Ga.

117 Approved December 9, 1879.

W. B. WOOD,
U. S. Judge.

(Endorsed:) In the Supreme Court of the United States, October term, 1880. The Mayor & Aldermen of the City of Savannah, pl'ffs in error. vs. Eugene Kelly, def'd't in error. Suit on sealed guarantee. Bond. Filed Dec. 9, 1879. W. P. Ward, clerk U. S. circuit court.

Citation.

UNITED STATES OF AMERICA, *ss:*

To Eugene Kelly:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday in October, A. D. 1880, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and southern district of Georgia, wherein The Mayor and Aldermen of the City of Savannah is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this Dec. 9, 1879.

118 [SEAL U. S. C. C. GA.] WILLARD P. WARD, *Clerk.*
W. B. WOOD,
U. S. Judge, Presiding.

Acknowledgement of service.

Due and legal service of *the* this citation acknowledged; copy, notice, and all other service waived, this 9th day of December, 1879.

GEORGE A. MERCER,
Attorney for Eugene Kelly.

(Endorsed:) In Suprem' Court of United States. October term, 1880. The Mayor & Aldermen of the City of Savannah, pl'ffs in error, vs. Eugene Kelly, def't in error. Citation. Filed Dec. 9, 1879. W. P. Ward, clerk U. S. circuit court.

119 *Clerk's certificate.*

UNITED STATES OF AMERICA,
Southern District of Georgia, ss:

I, Willard P. Ward, clerk of the fifth circuit court of the United States for the southern district of Georgia, do hereby certify that the foregoing is a true, full, and complete transcript of the record and of all the proceedings in the case of Eugene Kelly against the Mayor and Aldermen of the City of Savannah, lately pending in this court, and appealed by writ of error sued out by the defendant, the said Mayor and Aldermen of the City of Savannah to the Supreme Court of the United States, all carefully compared by me with the original papers remaining on file and of record in my office.

In testimony whereof I have caused the seal of the said circuit court to be hereunto affixed at Savannah, in said district, this eleventh day of March, A. D. 1880, and of the Independence of the United States the 104th year.

[SEAL.] WILLARD P. WAKD, *Clerk.*

(Indorsement on cover:) No. 198. The Mayor & Aldermen of the City of Savannah, plaintiff in error, vs. Eugene Kelly. S. Georgia C. C. U. S. Filed 17th March, 1880.

(Stamp:) Office Supreme Court U. S. Filed Mar. 17, 1880. D. W. Middleton, clerk.

10.8-1884

SUPREME COURT OF THE UNITED STATES.

No. 198.

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH,

PLAINTIFFS IN ERROR,

vs.

EUGENE KELLY,

DEFENDANT IN ERROR.

BRIEF FOR PLAINTIFF IN ERROR.

GEO. N. NICHOLS, Printer, Savannah, Ga.

IN THE

SUPREME COURT OF THE UNITED STATES.

No. 198.

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH,

PLAINTIFFS IN ERROR,

VS.

EUGENE KELLY,

DEFENDANT IN ERROR.

STATEMENT OF CASE, NO. 198.

Eugene Kelly sued the Mayor and Aldermen of the City of Savannah, a municipal corporation, in covenant for the non-payment of nineteen (19) Bonds of the Savannah, Albany and Gulf Railroad Company, with certain Coupons thereto attached. These Bonds are identical in form and read as follows:

No. 457.] UNITED STATES OF AMERICA,
STATE OF GEORGIA,
SAVANNAH, ALBANY AND GULF RAILROAD CO.

Know all men by these Presents, That the Savannah, Albany and Gulf Railroad Company hereby acknowledges ——owe, and binds itself to pay————, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed Coupons at the Company's office in Savannah.

In testimony whereof, The Savannah, Albany and Gulf Railroad Company has caused this Bond to be attested on their behalf by their President and Secretary, and their common seal attached, this first day of January, 1859.

[Seal.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin) Five Hundred Dollars.

The Coupons attached to the Bonds are identical in form and read as follows:

SAVANNAH, ALBANY AND GULF RAILROAD CO.

There is due to the bearer Seventeen $\frac{50}{100}$ dollars, being the interest for 6 months, on Bond No. —— for $500, payable at the Company's office in Savannah.

D. MACDONALD, *Treasurer.*

It is claimed that the municipal corporation is liable for the payment of said bonds and coupons, under the following instrument, which is endorsed upon each of said bonds:

(Endorsed.)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within Bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the Mayor, with the seal of said corporation affixed.

[Seal of City.] THOMAS M. TURNER,
Mayor.

Attest:
EDWARD G. WILSON,
Clerk of Council.

The Mayor and Aldermen of the City of Savannah pleaded the general issue; that the alleged guaranty endorsed on the Bonds was made without authority of law, and was at the time of making of the same and still is utterly void; that said alleged guaranty endorsed on said Bonds was not the deed of the Corporation, because it was made without any consideration moving to the city therefor, of which the Plaintiff in the Court below had due notice at and before the time of his becoming the bearer of said Bonds and Coupons; that said alleged obligations endorsed on said Bonds were not made for value received and were not made for works of internal improvement, and were not issued by the Corporation; that the Municipal Corporation was not liable on said alleged obligations because the same were made under and by virtue of certain resolutions and proceedings set forth in the plea and which are hereinafter fully set out; that the Bonds were the obligation of the Savannah, Albany and Gulf Railroad Company; when the alleged guaranty was endorsed on the Bonds said Railroad Company was entirely solvent; on April 18th, 1863, this Railroad Company was authorized by act of the Legislature of Georgia to consolidate with the Atlantic and Gulf Railroad Company, and in the same year the two railroad companies did consolidate and became one company under the name of the Atlantic and Gulf Railroad Company, which became liable to pay said Bonds; since the consolidation, the Plaintiff in the Court below has accepted the new Company as his debtor and collected from it the coupons attached to the Bonds without making any demand upon the Municipal Corporation

until the new Company became insolvent in 1877; after the consolidation said new Company created liens and made mortgages on all the property of the Savannah, Albany and Gulf Railroad Company, whereby all of its property was appropriated to the payment of the debts of the new Company to the exclusion of the Bonds and Coupons sued on; that all said acts and doings of the Railroad Company and of the Plaintiff in the Court below were without the consent of the Municipal Corporation; and without the recommendation of a public meeting of the citizens of Savannah, called for that purpose; and that thereby the nature of the said contract has been changed, the risk of the Municipal Corporation increased, and it has been exposed to greater liability.

Legislative authority for the city's alleged guaranty was claimed under the following Acts of the General Assembly of the State of Georgia.

Act of December 24th, 1825, § 8.

"That the said Mayor and Aldermen, or a majority of them, shall have the power and authority to borrow money or contract loans for the use of the city, both from bodies corporate or from individuals, either residing in or out of the State, and to pledge the funds or property of the Corporation of the City of Savannah and the hamlets thereof for the redemption of such loan or loans; and also shall have power to purchase any real or personal estate for the use and benefit of the Corporation, and sell or dispose of all or any part of the property, domain, land or lots, or any personal property to the said Corporation—belonging or appertaining, by lease for years or fee simple, as to the said Mayor or Aldermen, or a majority of them shall seem meet and proper."

Ga. Acts 1825, p. 188.
Wilson's Digest, p. 514.

Act of December 27th, 1838, § 5. That the Mayor and Aldermen of said city be and they are hereby authorized and empowered to obtain money on loan on the faith and credit of said city, for the purposes of contributing to works of internal improvement.

Ga. Acts, 1838, p. 64.

Act of March 4th, 1856, § 8.—"And whereas, doubts have been entertained whether certain Bonds issued and disposed of by the City of Savannah for internal improvements, were legal and valid, therefore, be it further enacted, that all Bonds heretofore issued by the constituted authorities of the City of Savannah, are hereby declared legal and valid, and from and after the passage of this Act, the Mayor and Aldermen of the City of Savannah, and the hamlets thereof, upon the recommendation of a public meeting of the citizens of Savannah, called for that purpose, shall have power and authority to cause Bonds to be issued and disposed of in such manner as they may direct, for purposes of internal improvement, which Bonds. so issued, shall be legal and valid."

Wilson's Digest, p. 526.
Ga. Acts, 1855-6, p. 390.

The Plaintiff in the Court below, on the trial of the case, put in evidence the Bonds and Coupons sued on.

The following resolutions and proceedings were also put in evidence by said Plaintiff:

OFFICE S., A. & G. R. R.,
SAVANNAH, March 16th, 1858.

At a meeting of the Board of Directors of the Savannah, Albany and Gulf Railroad, held this day, Mr. Bartow offered the following resolutions, which were adopted:

Resolved, That the President be authorized to issue Bonds of the Company to the amount of *One Hundred and Fifty Thousand* Dollars, ($150,000,) if so much be necessary, having twenty (20) years to run and bearing seven (7) per centum interest, payable semi-annually, and to apply the same to the discharge of the debts of the company now due.

Resolved further, That a committee, to consist of three, of which the President shall be one, be appointed to apply to the City Council to endorse the Bonds to be issued by this Company, said committee to consist of Doctor J. P. Screven, Col. F. S. Bartow, and John W. Anderson, Esq.

OFFICE S., A. & G. R. R.,
SAVANNAH, April 29th, 1858.

At a meeting of the Board of Directors of the Savannah, Albany and Gulf Railroad, held this day, Mr. Charles Green offered the following resolution:

Resolved, That the resolution of Mr. Bartow at a meeting of 16th March, 1858, authorizing the President to issue Bonds to the extent of *One Hundred and Fifty Thousand* Dollars, ($150,000,) be amended by extending the amount to *Three Hundred Thousand* Dollars, ($300,000,) under the conditions and stipulations contained in the said resolution.

OFFICE S., A. & G. R. R.,
SAVANNAH, April 29th, 1859.

At a meeting of the Board of Directors of the Savannah, Albany and Gulf Railroad, held this day, Mr. Bartow offered the following resolution, which was adopted:

Resolved, That the resolution passed on the 16th March, 1858, authorizing the President to issue Bonds of this Company to the amount of *One Hundred and Fifty Thousand* Dollars ($150,000), be amended so as to authorize the issue of Bonds to the amount of *Three Hundred Thousand* Dollars ($300,000), if the same be necessary, which amount shall not be exceeded without the further action of this Board.

SAVANNAH, 28th April, 1859.

Solomon Cohen, Francis S. Bartow, and John W. Anderson, Esqs., appeared before the Board (City Council) and in behalf of the Savannah, Albany and Gulf Railroad, submitted the foregoing resolutions, whereupon, after hearing a few remarks from Solomon Cohen and Francis S. Bartow, Esqs., Alderman Guerard offered the following resolution:

Resolved, That a committee of three be appointed by the Mayor to consider the application of the Savannah, Albany and Gulf Railroad for the endorsement by the city of the bonds for $300,000.

Alderman Boston offered the following amendment, which was adopted, viz:

Resolved, That His Honor, the Mayor, be authorized to endorse the Bonds of the Savannah, Albany and Gulf Railroad to the sum of Three Hundred Thousand Dollars ($300,000.)

Alderman Falligant offered the following resolution, viz:

Resolved, That His Honor, the Mayor, should he deem it illegal to endorse the Bonds of the Albany and Gulf Railroad Company, be authorized to call a public meeting of the citizens of Savannah, to ratify the action of this Board, and if legal that he be authorized to grant the re-

quest of the Board of Directors to endorse the bonds of the company to the amount of $300,000.

Alderman Guerard offered the following amendment, viz:

And be it further *Resolved*, That the Mayor be authorized and empowered to arrange all details in reference to the form of such bonds, and the time and place at which interest shall be paid in conjunction with said railroad.

The resolution and amendment were then unanimously adopted.

A PROCLAMATION BY THE MAYOR.

Whereas Council, at the last meeting, authorized the Mayor to endorse Bonds of the Savannah, Albany and Gulf Railroad, to the amount of Three Hundred Thousand Dollars, and to call a public meeting of the citilens of Savannah to ratify the action of the Board, in case he deemed such endorsement to be illegal.

Now I, Thomas M. Turner, Mayor of the City of Savannah and hamlets thereof, believing that the spirit of the Legislative Act would be violated unless a public meeting was called to sanction the endorsement of such bonds, do hereby issue this my proclamation calling a public meeting of the citizens of Savannah, at the Council Chamber, in the Exchange, on Saturday next, at 12 o'clock M., for the purpose of considering the propriety of the city's endorsing the bonds of the Savannah, Albany and Gulf Railroad to the amount of three hundred thousand dollars.

Given under my hand and corporate seal of said city, this 11th day of May, 1859.

[Seal.] THOMAS M. TURNER, *Mayor.*

EDWARD G. WILSON, *C. C.*

PUBLIC MEETING.

In pursuance of the proclamation of His Honor, the Mayor, a meeting of the citizens of Savannah was held in the Council Chamber of the Exchange, on Saturday, the 14th inst., to take into consideration the propriety of authorizing the city to endorse the bonds of the Savannah, Albany and Gulf Railroad to the amount of $300,000.

On motion of William Duncan, Esq., Hon. Thomas M. Turner was called to the chair, and W. T. Thompson appointed Secretary.

Major A. Porter addressed the meeting in favor of the proposed endorsement of the bonds by the city, and offered the following preamble and resolutions:

WHEREAS, The Savannah, Albany and Gulf Railroad Company made application to the City Council at a meet-

ing held 28th of April, 1859, to guarantee or endorse the bonds of said Railroad Company to the amount of $300,000; and

WHEREAS, The City Council at said meeting did by vote authorize the Mayor to endorse the said bonds, and if he had any doubts of the legality of such endorsement, to call a public meeting of the citizens to ratify the action of Council; and

WHEREAS, The Mayor, by his proclamation dated the 11th of May, has called this meeting of citizens for that purpose; be it therefore

Resolved, That this meeting hereby ratifies the vote of Council, and authorizes the Mayor and Aldermen of the City of Savannah to guarantee the bonds of the Savannah, Albany and Gulf Railroad Company to an amount not exceeding $300,000, and to adopt the necessary steps to carry the same into effect.

The preamble and resolutions being seconded were unanimously passed.

On motion the meeting adjourned.

THOMAS M. TURNER, *Chairman.*

W. T. THOMPSON, *Secretary.*

OFFICE S., A. & G. R. R.,
SAVANNAH, May 18th, 1859.

At a meeting of the Board of Directors of the Savannah, Albany and Gulf Railroad Company, held this day, on motion of the Vice President, it was ordered that the proceedings, as published, of the City Council of Savannah, on the 28th ult., and a public meeting of the citizens on the 14th inst., be engrossed in the minutes of this company.

The President then stated that the Bonds of the company, to the amount of $300,000, had been prepared and received, and asked for instructions of the Board in reference to the disposition to be made of them.

On motion of Mr. Chas. Green, it was resolved that as many of the new Bonds at par as may be necessary to secure the debts due to the "Merchants' and Planters' Bank" and the "Bank of the State" be handed to the respective Cashiers of these institutions, upon their surrendering the guaranty of Doctor Screven on account of the Savannah, Albany and Gulf Railroad.

Resolved, also, That when the Bonds are perfected, a sufficient amount be paid over to Dr. Screven, at par, to extinguish the debt due by the company to him, with interest.

The oral evidence introduced on the trial of the case showed that demand was made by a Notary Public for

payment of Bonds and Coupons sued on upon the Cashier of the Receivers of the Atlantic and Gulf Railroad and notice was given to the Municipal Corporation by putting notice under the door of the Exchange, a building used in part by the officers of the said Municipal Corporation; the Atlantic and Gulf Railroad was then in the hands of Receivers, appointed by the Circuit Court of the United States for the Southern District of Georgia, and had no office; the Savannah, Albany and Gulf Railroad Company had neither office nor officers at the time; it had consolidated its stock with that of the old Atlantic and Gulf Railroad Company in 1863, and the two formed thereafter one corporation under the name of the Atlantic and Gulf Railroad Company.

Alderman John Boston, who offered an amendment to the resolution under which the guaranty was placed on the Bonds, was at the time a Director of the Savannah, Albany and Gulf Railroad Company.

The resolution offered at the citizens' meeting, held for the purpose of considering the propriety of authorizing the city to endorse the Bonds, was offered by Major Porter, who was then the President of the State Bank.

The $300,000 Bonds were made by the Railroad Company and dated the first of January, 1859; the City's alleged guaranty was placed thereon after the 14th day May, 1859, while the Bonds remained in the hands of the Railroad Company, unissued—afterwards they were issued, by the Railroad Company, as follows: $52,000 were paid to the then President of the Savannah, Albany and Gulf Railroad Company to reimburse him for moneys advanced by him for the Railroad Company; $64,000 to the Merchants' and Planters' Bank; $17,500 to the Bank of the State of Georgia, of which A. Porter, was President. These last two amounts were to cover indebtedness to said Banks, incurred for the benefit of the Railroad Company in the construction of the Railroad and for other purposes. $100,000 to pay instalments due the Atlantic and Gulf Railroad Company for the subscription by the Savannah, Albany and Gulf Railroad Company to the stock of the Atlantic and Gulf Railroad Company; the balance of the Bonds, $66,500, was converted into money which was mixed with the other moneys of the Railroad Company and no separate account of it was kept, but afterwards rolling stock, embankment on the line of road and improvements at depot were paid for out of the general fund of the Railroad Company.

The Savannah, Albany and Gulf Railroad Company was solvent when these Bonds were issued; its line of railroad commenced at Savannah and extended 68 miles. The Savannah, Albany and Gulf Railroad and the Albany and

Gulf Railroad were both intended to extend to the Chattahoochee River. This issue of $300,000 of Bonds could not have been sold at par without the City's guaranty. The City owned $1,000,000 stock in the Savannah, Albany and Gulf Railroad Company when these Bonds were issued, and was always represented at stockholder's meetings by a commissioner. The City subscribed $200,000 to the stock of the Albany and Gulf Railroad Company before the consolidation of that Company with the Savannah, Albany and Gulf Railroad Company.

At the stockholder's meeting held to vote on the question of the consolidation of the two companies, the city, as a stockholder, was represented by a commissioner, but there was no public meeting of the citizens of Savannah called for the purpose of authorizing such commissioner to vote on the question of consolidation.

The coupons on the Bonds of this $300,000 issued were paid by the Atlantic and Gulf Railroad Company from 1863 until it became insolvent in 1877; all of its property has been sold under foreclosure of mortgage. Witnesses testified on the trial that in their opinion the Savannah, Albany and Gulf and the Albany and Gulf Railroads increased the business done in Savannah and added to the prosperity of the city.

The Judge who tried this case charged the Jury as follows:

1. Section 5 of the Act of 1838 confers authority upon the Mayor and Aldermen of the City of Savannah to obtain money on loan on the faith and credit of the city for the purposes of contributing to works of internal improvement and to issue negotiable Bonds for the money so obtained.

2. Section 8 of the Act of 1856 confers power upon the Mayor and Aldermen of the City of Savannah to issue negotiable Bonds for the purpose and upon the terms therein set forth.

3. I incline to the opinion that Section 5 of the Act of 1838 is not repealed by the Act of 1856, but even if it is, authority to the Mayor and Aldermen of the City of Savannah to issue negotiable Bonds is conferred by Section 8 of the said last named Act upon the terms and conditions, and for the purposes therein mentioned.

4. Section 5 of said Act of 1836, if not repealed, authorized the Mayor and Aldermen of the City of Savannah to make the guarantee sued on in this case for the purposes of contributing to works of internal improvement.

5. Section 8 of the said Act of 1856 authorized the Mayor and Aldermen of the City of Savannah to make the guar-

antee sued on in this case, provided the same was made upon the same terms and conditions upon which and for the same purposes for which the said Mayor and Aldermen were authorized by said section to issue bonds.

6. That the evidence, if credible, showed that there was a valid consideration moving to the Mayor and Aldermen of the City of Savannah for the guarantee sued on in this case.

7. The recital in the guarantee that it was made for value received, and the fact that said guarantee was under seal, imparted a condsideration for the guarantee.

8. That the evidence, if credible, showed that the bonds guaranteed were issued for purposes of internal improvement within the meaning of the 8th section of the Act of 1856, and for the purposes of contributing to works of internal improvement, within the meaning of Section 5 of the Act of 1838.

9. When the power to issue negotiable Bonds may be fairly derived from the charter of a municipal corporation, and the power has been exercised and acquiesced in by the inhabitants and authorities of the municipality and negotiable Bonds issued under the power have, before maturity, come into the hands of innocent and *bona fide* holders for value, doubts and ambiguities will be resolved in favor of the power.

10. No actings or doings of the Savannah, Albany and Gulf Railroad Company, or of the Atlantic and Gulf Railroad Company, or both of them, without the consent of the holder of the bonds guaranteed in this case, can relieve the responsibility of the maker or guarantor of the bonds.

11. If the City of Savannah was a stockholder to the amount of a million of dollars, or other large sum, in the Savannah, Albany and Gulf Railroad Company, and had as such stockholder a representative in the Board of Directors of said Railroad Company, and such representative assented to the consolidation of the said Railroad Company with the Atlantic and Gulf Railroad Company, the assent of the city to such consolidation may in this case be inferred from said facts.

12. The Plaintiff in this case by going, after said consolidation, to the office of the Atlantic and Gulf Railroad Company, and there receiving payment of some of the coupons belonging to the Bonds on which the guarantee sued on in this case was endorsed, did not thereby waive any of his rights derived from said guarantee, either against the Savannah, Albany and Gulf Railroad Company, or against the Mayor and Aldermen of the City of Savannah.

13. The evidence in this case offered by the Plaintiff, (there being none offered by the Defendant), if the Jury be-

lieve it, would justify them in returning a verdict for the Plaintiff.

The Plaintiff in Error excepted to each of the said rulings, decisions and charges of the Judge at the time the said instructions were given and while the Jury were at the bar.

The Jury rendered a verdict in favor of the Plaintiff in the Court below for the principal of said Bonds and coupons, with interest on the coupons from the time they fell due, respectively. Judgment was entered on said verdict. A written stipulation was filed before the trial of the cause, signed by the Attorneys of record for respective parties, whereby a trial by jury was waived, and it was agreed that all issues of fact in the case should be tried and determined by the Court without the intervention of a Jury, in accordance with Sections 649 and 700 of the Revised Statutes U. S.; trial was had, however, by Jury, who found a verdict as above stated. The assignments of error are follows:

ASSIGNMENTS OF ERROR.

IN THE SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1880.

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, *Plaintiffs in Error,* AND EUGENE KELLY, *Defendant in Error.*	*Suit on Sealed Guarantee.*

And now the aforesaid, the Mayor and Aldermen of the City of Savannah, by Alexander R. Lawton and Walter S. Chisholm, its Attorneys, comes and says, that in the foregoing record and proceedings there is manifest error in this, to-wit:

First. Because the said Court erred in deciding and charging as follows: that "Section 5 of the Act of 1838 confers authority upon the Mayor and Aldermen of the City of Savannah to obtain money on loan, on the faith and credit of the City, for the purpose of contributing to works of internal improvement, and to issue negotiable bonds for the money so obtained."

Second. Because the Court erred in deciding and charging, that, "Section 8 of the Act of 1856 confers power upon the Mayor and Aldermen of the City of Savannah to issue negotiable bonds for the purposes and upon the terms and conditions therein set forth."

Third. Because the said Court erred in deciding and charging that, "I incline to the opinion that Section 5th of

the Act of 1838 is not repealed by the Act of 1856; but even if it is, authority to the Mayor and Aldermen of the City of Savannah to issue negotiable Bonds is confirmed by Sec. 8 of the said last named Act, upon the terms and conditions and for the purposes therein mentioned."

Fourth. Because the said Court erred in deciding and charging that "Section 5th of the said Act of 1838, if not repealed, authorized The Mayor and Aldermen of the City of Savannah to make the guarantee sued on in this case for the purposes of contributing to works of internal improvement."

Fifth. Because the said Court erred in deciding and charging that, "Section 8 of the said Act of 1856 authorized The Mayor and Aldermen of the City of Savannah to make the guarantee sued on in this case, provided the same was made upon the same terms and conditions upon which, and for the same purposes for which the said Mayor and Aldermen were authorized by said Section to issue bonds."

Sixth. Because, the said Court erred in deciding and and charging, "that the evidence, if credible, showed that there was a valid consideration moving to the Mayor and Aldermen of the City of Savannah for the guarantee sued on in this case."

Seventh. Because the said Court erred in deciding and charging that "the recital in this guarantee was made for value received, and the fact that said guarantee was under seal, imparted a consideration for the guarantee."

Eighth. Because the said Court erred in deciding and charging "that the evidence, if credible, showed that the Bonds guaranteed were used for purposes of internal improvement within the meaning of the 8th Section of the Act of 1856, and for the purpose of contributing to works of internal improvement within the meaning of Section 5th of the Act of 1838."

Ninth. Because the said Court erred in deciding and charging that "when the power to issue negotiable Bonds may be fairly derived from the charter of a municipal corporation and the power has been exercised and acquiesced in by the inhabitants and authorities of the municipality and negotiable Bonds issued under the power have, before maturity, come into the hands of innocent and *bona fide* holders for value, doubts and ambiguities will be esolved in favor of the power."

Tenth. Because the said Court erred in deciding and charging that "no actings or doings of the Savannah, Albany and Gulf Railroad Company, or of the Atlantic and Gulf Railroad Company, or of both of them, without the consent of the holders of the Bonds guarateed in this case, can relieve the responsibility of the maker or guarantor of these Bonds."

Eleventh. Because the said Court erred in deciding and charging that "if the City of Savannah was a stockholder to the amount of a million of dollars, or other large sum in the Savannah, Albany and Gulf Railroad Company, and had, as such stockholder, a representative in the Board of Directors of said Railroad Company, and such representative assented to the consolidation of the said Railroad Company with the A. & G. R. R. Co. the assent of the city to such consolidation may, in this case be inferred from such facts."

Twelfth. Because the said Court erred in deciding and charging that "the Plaintiff in this case by going, after said consolidation, to the office of the A & G. R. R. Co., and there receiving payment of some of the Coupons belonging to the Bonds, on which the guarantee sued on in this case was endorsed, did not thereby waive any of the rights derived from said guarantee, either against the S., A. & G. R. R. Co., or against the Mayor and Aldermen of the City of Savannah."

Thirteenth. Because the said Court erred in deciding and charging that "the evidence in this case offered by the Plaintiff (there being none offered by the Defendant,) if the Jury believe it, would justify them in returning a verdict for the Plaintiff."

Fourteenth. Because the said Court erred in deciding and charging the Jury that they should find for the Plaintiff, when, by law, the Court should have charged the Jury to find verdict for the Defendant, the Mayor and Aldermen of the City of Savannah. Wherefore, and for divers other errors apparent on the face of said record, said Plaintiff in Error, the Mayor and Aldermen of the City of Savannah, prays the aforesaid proceedings be reversed and said cause remanded to said Circuit Court.

A. R. LAWTON,
W. S. CHISHOLM,
Attorneys for Plaintiff in Error.

The facts in the case of the Mayor and Aldermen of the City of Savannah, Plaintiff in Error, *vs.* Martin (No. 199) are identical with the facts in this case, and the same points are made in both cases.

POINTS AND AUTHORITIES.

The Eighth Section of the Act of 25th December, 1825.

This Act relates in no way to *internal improvements*. Power and authority was conferred on the Mayor and Aldermen, or a majority of them, to borrow money or contract loans "for *the use of the city*." The uses are mentioned in the preceding and Seventh Section of this Act, which is as follows:

VII Section.—That the said Mayor and Aldermen, or a majority of them, are hereby authorized to raise, by a poll tax upon all such persons as reside within the corporate limits of Savannah (except those as excepted as aforesaid), or by tax and assessment upon all real and personal estate within the corporate limits as aforesaid any sum or sums of money necessary for the use and good of the said City of Savannah, and the hamlets thereof, in all matters of internal, police, and general safety, as respects health, fires, city guard, salaries of officers, and any other exigencies usual to incorporated cities; and to enforce the receipts and collection of such assessment and taxes [by the proper officers in such manner as the assessments and taxes] of the State are collected and enforced.

This Act was treated by the Circuit Court as not applicable to the case.

The Fifth Section of the Act of 27th December, 1838.

The title of this Act is as follows:

"AN ACT.

"To extend the limits of the City of Savannah and to authorize the corporate authorities of said city to borrow money for works of internal improvement."

The fifth section gives power and authority to the Mayor and Aldermen "to *obtain money on loan*, on the faith and credit of said city, for the purposes of *contributing* to *works* of internal improvements."

The language of the Act expressly authorizes a donation, but that of the title does not.

The 17th Section of Article 1, of the Constitution of Georgia, adopted 23d May, 1798, and continuously of force until and after the 27th day of December, 1838, is as follows: * * "Nor shall any law or ordinance pass containing any matter different from what is contained in the title."

It has been held "that under this clause so much of the statute as contains matter different from what is expressed in the title thereof, will be void."

Mayor and Aldermen of Savannah *vs.* the State of Georgia 4th Georgia, Rep. p. 26

The 24th Section of the same Article of the same Constitution is as follows: "No vote, resolution, law or order shall pass the General Assembly granting a donation or gratuity in favor of any *person whatever*, but by concurrence of two-thirds of the General Assembly."

A constitutional restraint upon the State as to donations applies also to such organizations as cities, counties and towns; they are instruments to carry out the will of the State. Through them the State can do indirectly only, what it might do directly.

Railroad Company *vs.* County of Otoe, 16 Wall, pp. 667, 675, 676.
Jarrold *vs.* Moberly, 103 U. S., pp. 586, 587.

At the time of the passage of this Act the only power which the City possessed to levy and collect taxes, was the said Seventh Section of the Act of 25th December, 1825.

Legislative doubt as the validity of Bonds of the City of Savannah, issued prior to the 4th March, 1856, is expressed in the 8th Section of the Act passed on that day.

The power and authority, if any, conferred by the Act of 1838, was "*to obtain money on loan*" and to contribute the *money*, when obtained, to works of internal improvements. It could never be stretched or construed into giving a power to endorse or guarantee the Bonds of a Railroad Company to be issued and disposed of by the latter Company. This Act of 1838 was, however, repealed on the 4th day of March, 1856, by an affirmative statute on the same subject, prescribing the only rules which should thereafter govern for the issuing and disposing of Bonds by the Municipal Authorities of Savannah for purposes of internal improvement.

"If a subsequent statute be not repugnant in all of its provisions to a prior one, yet, if the later statute clearly intended to prescribe the only rules which should govern, it repeals the prior one."

Daviess, *et al.*, *vs.* Fanbairn, *et al.*, 3 How. pp. 636, 645.

Besides the IX Section of the said Act of 1856, expressly repeals conflicting laws.

The Eighth Section of the Act of 4th March, 1856.

This section, after reciting that doubts have been entertained whether certain Bonds issued by the City of Savannah for internal improvement were legal or valid, contains the only authority for the issue and disposition of Bonds for purposes of internal improvement granted to the Municipal Corporation and of force on the 14th day of May, 1859. The authority is given to the corporation in its technical corporate name the "Mayor and Aldermen of the City of Savannah and the hamlets thereof." And the manner and mode of the exercise of the authority is prescribed. The corporation is to cause the Bonds to be issued and disposed of, upon the recommendation of a public meeting of the citizens of Savannah called for that purpose, and in such manner as they may direct, for purposes of internal improvement. The Bonds *so issued* are declared legal and valid, and conflicting laws are repealed.

The covenants of guarantee sued on in this case declare on their face that they are made "as authorized by a public meeting of citizens held on the 14th day of May, 1859." They do not claim any validity from the authority of the Mayor and Aldermen of the City of Savannah and the hamlets thereof, except so far as they were authorized by the public meeting of citizens.

The *citizens* certainly had no inherent power to authorize the Municipal Corporation to issue Bonds of any kind. They were not even the class as such who were liable to pay the taxes which were authorized to be assessed. At this date, the 14th May, 1859, the tax law of force in the City of Savannah was the Third Section of the Act of the 8th December, 1849, which gave power to make assessments and levy taxes on "the inhabitants of said city and those who hold taxable property within the same."

The *inhabitants* and those *who hold taxable property* within the city are not necessarily *citizens*.

The authority of the citizens in public meeting must therefore have been obtained from the General Assembly of the State. And they could delegate such power only as they possessed under the restraints of the Constitution.

The Constitution in the 24th Section of Article 1, protected the inhabitants who were not citizens and those who held taxable property in the city, irrespective of citizenship. That section in effect, declared that property in the State should not be taxed to pay donations to any person whatever, but by concurrence of two-thirds of the General Assembly, representing *all persons* and *all property in the*

State, deciding upon the particular donation. The waiver of the citizens of Savannah to this protection could not bind those who were not citizens and who would be obliged to bear the burden of taxation if irrepressed. This class of tax payers who were not citizens had a right to rely on the Constitution The citizens of Savannah had no Constitutional right to make donations of any kind and bind this class or their property to pay for the same.

The power such as it was, vested in the public meeting held on the 14th May, 1859, was derived, if at all, solely from the 8th section of the Act of March 4th, 1856, and of this every holder had due and legal notice on the face of the guarantees. If the meeting was held by authority of the Act of 1856 they had notice of the kind of bond authorized, and how it was "to be issued and disposed of."

"The authority to *issue* Railroad aid Bonds is not one of the ordinary powers of a municipality. Express authority for it is required and this authority must be exercised in conformity with prescribed forms."

Jones on Railroad Sec., §226.
Rogers *vs.* Burlington, 3 Wall, 669.
Head *vs.* Providence Ins. Co., 2 Cranch, 169.
Scipio *vs.* Wright, 101, U. S., 674, 675.
Burroughs' Public Sec., pp. 206–211.

In Head *vs.* Providence Ins. Co., Marshall, C. J., delivering the opinion of the Court, said :

"The Act of incorporation is to them an enabling Act; it gives them all the power they possess ; it enables them to contract and when it presents to them a mode of contracting they must observe that mode or the instrument no more creates a contract than if the body had never been incorporated."

In Rogers *vs.* Burlington, Mr. Justice Field, with whom concurred the Chief Justice, and Grier and Miller, JJ., said :

The charter is to them the letter of authority, to which every one may look when called upon to consider the validity of their acts. The corporation can only be bound when these agents keep strictly within their prescribed limits. But this is not all ; the power granted must be exercised substantially in the mode designated. The adoption of the mode to this extent is essential to the validity of any act done. If the charter provide that a measure shall be authorized by ordinance of the Council, it cannot be authorized by resolution of that body ; if it prescribe a sale at auction a sale in any other manner is void ; if it author-

ize a borrowing of money upon a vote of the citizens the money cannot be borrowed in any other way. In all such cases the *mode becomes the measure of the power* ; * * * If it be conferred to enable the corporation to 'borrow money it cannot be used to enable the corporation to lend its credit."

It is true this quotation is from the opinion of the minority, but the principles announced are in accord with those of the majority. The difference arose upon their application to the case then on trial.

In this case we say, the power expressly granted by the Act of 1856 to the corporation was to cause bonds to be issued and disposed of, in such manner as the citizens of Savannah in public meeting may direct, for purposes of internal improvement.

The bond we think must be the bond of the corporation, and it must be issued and disposed of by the corporation in the manner directed. The obligation contemplated by the Act was one primary and not secondary in its character. It was to be a promise to pay the debt of the city when incurred in terms of the power granted.

The supposed obligation of the city in this case is a technical *guarantee.* It is a promise to pay the debt of another. It is a contract to *insure* the solvency of the Savannah, Albany & Gulf Railroad to the amount of $300,000, bearing semi-annual interest at seven per cent per annum for twenty years.

2. Daniels' Negotiable Inst., §1752, §1753.

It is a contract altogether different from the bond authorized to be "issued and disposed of" under the Act of 1856. A greater power may include a lesser one when they are of the same nature or kind. But "the note and the guaranty are not one and the same thing. The note is the debt of the maker, the guaranty is the engagement of the defendant that the maker shall pay the note when it becomes due. A joint action will not lie against them both. They are not the same, but different and distinct contracts."

Brewster *vs.* Silence, 8 N. Y., 315.
Hall *vs.* Farmer, 5 Denio, 484.
Oxford Bank *vs.* Haynes, 8th Pick., 427.

In the Floyd acceptances, 7th Wallace, on page 682, Justice Miller, delivering the opinion of this Court, said of

those acceptances: "The paper was in fact accommodation paper, as it was found to be by the Court of Claims, by which the Secretary undertook to make the United States acceptor for the sole benefit of the drawers. It was a *loan of the credit of the government* volunteered by him without consideration and without authority. That the transaction was not payment, nor intended to be payment, for the supplies furnished, is clear, because the acceptances were not expected to be paid by the government, nor payable at the treasury, but were to be met by the drawers at the bank with which they dealt."

And in the 8th note of the syllabus of the case it is stated: "As under existing laws there can be no lawful occasion for an officer to accept drafts in behalf of the government, such acceptances do not bind it, though there may be occasions for drawing or paying drafts which may bind the government."

So in this case although the municipal corporation may be authorized to make and issue its own bonds, it has no power to guarantee as a donation or otherwise the bonds of a Railroad corporation issued by and payable at the office of the Railroad Company.

"Although a municipal corporation may have power directly to accomplish a certain object, and itself expend its revenues or money therefor, yet this does not give or include the power to lend its credit to another who may be empowered to effect the same object. Expending money by a City Council as agents or administrators of their constituents is a very different thing from binding their constituents by a contract of suretyship—'a contract which carries with it a lesion by its very nature.'"

1 Dillon Municipal Corp., §471, (393.)
Blake, *et al.*, *vs.* The Mayor of Macon, 53 Ga., 172—176.
3 Louisiana, 294.

The Bonds under the Act of 1856 were to be *issued* and *disposed* of by the municipal corporation. The word "issued," in the U. S. Act of April 12th, 1856, has been construed to mean the "physical fact" of issuing or putting in circulation.

Cooke *vs.* The United States, 12 Blatchford, 44.

Delivering to the Railroad Company was not issuing, because that company could not have waived an action against the city on them; and until issued by the Railroad Company there could arise no liability against the guarantor, because until then there was no acceptance by the Railroad Company of the city as its guarantor.

Brandt on Suretyship, § 14.

The only witness introduced by Plaintiff to testify concerning the issue of these Bonds and guarantees was John Screven, and on cross-examination, he said he was not even a director at the time the Bonds were issued. He said: "I know nothing of my own knowledge about the Bonds. The Bonds will explain themslves."

Record, p. 38.

In this case such a construction is strengthened by the addition of the words "disposed of." The fact that these Bonds had not been "issued and disposed of" by the municipal corporation, but by the Railroad Company, was patent on the face of the Bonds and coupons. The nature of the contracts notified everyone that they could not have been issued and disposed of, except by the Railroad Company. The contract was to insure the solvency of the party issuing. The power to issue and dispose of the Bonds could not be delegated. The Act of 1856, not only prescribed that they should be issued and disposed of, by the Mayor and Aldermen of the City of Savannah, but that it must be done *in such manner* as they (the citizens) may direct.

We contend that the word "they" refers to the citizens, and not to the "Mayor and Aldermen of the City of Savannah and the hamlets thereof." The Act makes the municipal corporation the agent of the citizens to cause Bonds to be issued and disposed of, in such manner as they may direct, for purposes of internal improvement. The public meeting failed to direct the manner of the issue and disposition of the guarantees.

The "Mayor and Aldermen of the City of Savannah and the hamlets thereof" could not supply this omission.

But if the word "they" referred to the Mayor and Aldermen, and not to the citizens, still the Act of 1856 conferred no power on them to delegate the manner of the issuing and disposing of the guarantees to the Railroad Company.

"The face of the paper is notice to the holders that its validity depends upon the regularity of its issue * * Persons receiving it from them know whether it is issued and whether they received it, for a proper purpose and a proper consideration. Of course they are affected by the absence of these essential ingredients and all subsequent holders take *cum onere*. and are affected by the same defect."

The Mayor *vs.* Ray, 19th Wall., 478.

"The power conferred upon municipalities to contract debts, especially those in aid of a Railroad, and to levy taxes for their payment, is a delegated one, and must be strictly pursued.

"And when steps are taken by the railroad authorities or others claiming to be creditors of the municipality, to compel the issue of the bonds or the levy of taxes to pay them, the creditors of the municipality are required to show that every step indicated by the statute under which the power is exercised has been taken in accordance with its provisions."

Burroughs on Public Sec., p. 290.

The same principle is stated in the case of the Floyd Acceptances, 7 Wall., p. 676. The Court says: "In each case the person dealing with the agent, knowing that he acts only by virtue of a delegated power, must at his peril see that the paper on which he relies comes within the power under which the agent acts. And this applies to every person who takes the paper afterwards; for it is to be kept in mind that the protection which commercial usage throws around negotiable paper, can not be used to establish the authority by which it was originally issued. These principles are well established in regard to transactions of individuals. They are equally applicable to those of the government."

In Marsh *vs.* Fulton County, this Court, through Justice Field, delivering the opinion, in reference to the facts of that case, used the following language: "But this is a very different thing from enforcing an obligation attempted to be created in one way, when the statute declares that it shall only be created in another and a different way."

10 Wall, p. 684.

The Act of 1856 prescribes that "bonds *so* issued shall be legal and valid" That is, bonds so issued strictly according to the terms and conditions of the Act. All other bonds are not valid.

In Thomas *vs.* Railroad Company, this Court, through Mr. Justice Miller delivering the opinion, said "Conceding the rule applicable to all statutes, that what is fairly implied is as much granted as what is expressed, it remains that the charter of a corporation is the measure of its powers, and that the enumeration of these powers implies the exclusion of all others."

101 U. S., pp. 81–82.

The "grantee of a franchise takes nothing by implication."

Code of Georgia, §2362.

The Code went into effect after 1859, but it was a codification of existing law only. This appears so far as this Section is concerned by the decision of the Supreme Court of Georgia upon the charter of the Central Railroad and Banking Company, passed long before the Act of 1856.

Collins *vs.* Central Railroad and Banking Co., *et al.*, 40 Ga., 624, 625.

Powers to municipal corporations are never implied, except where they are necessary to the execution of some power expressly granted.

Police Jury *vs.* Britton, 15th Wall, 572.

And we contend that a power to insure the solvency of the Savannah, Albany & Gulf Railroad Company for twenty years, as was done in this case, cannot be implied from the express power in the Act of 1856 to issue and dispose of bonds for purposes of internal improvement as therein prescribed.

The contracts are different and the consequences different.

When a citizen votes to cause to be issued and disposed of bonds by the municipal corporation, for purposes of internal improvement, he consents that his property should at once be charged with a tax to pay the coupons as they become due, and a further tax to create a sinking fund with which to discharge the principal at maturity; and in Savannah the tax when assessed becomes a lien on all his property in the State. But when he votes to insure the solvency of a Railroad Company for the next twenty years, he does not consent that his property shall at once be charged with the payment of a lien or tax of any kind. In such a case there is no liability, no tax, no lien, until the insolvency of the maker. It may be the intention of the voter to remain a citizen but a few years. He is then careful of the present only and reckless as to the future. He cares not if, at the end of twenty years, taxation should amount to confiscation, provided he escapes before that time.

About twenty-four years ago certain citizens voted at a public meeting to ratify the action of the City Council of Savannah in endorsing or guaranteeing the bonds of the Savannah, Albany and Gulf Railroad Company. The bonds were to be issued to pay the debts of the Railroad corporation; what these debts were was not told. The guarantees were accordingly placed upon the bonds for the accommodation of the Railroad Company. No consideration was paid to or received by the guarantor. No one anticipated the events which thereafter followed and produced the insolvency of the Railroad Company about the time of the maturity of the bonds. There was no liability on the city until then. No provision had been made for the payment; no taxes levied from year to year to create a sinking fund; but the corporation is now called upon at once to raise by taxation from an astonished community near $500,000. There is not now a citizen whose name appears in the proceedings of that meeting in the city. The wary capitalist, in all the assumed innocence of a *bona fide* holder, has appealed to the Courts. He doubtless has had the benefit of the opinion of learned counsel, and paid for his bonds a price proportionate to the chances of a recovery. The defendants are the present citizens, tax payers and inhabitants, the rich and the poor, the educated and the ignorant, those who are citizens and those who are not, all represented in this suit by the municipal corporation. For the protection of such communities the law, as we have endeavored to state it, has been adopted.

It follows that in this case, to entitle the holder of the bonds and guarantees to recover against the defendant, it must clearly appear: First, that the municipal corporation had the power to make the guarantees; and Second,

that the mode prescribed in the statute for the making, issuing and disposing of them has been pursued.

In the case of Chisholm *vs.* The City of Montgomery, 2 Woods, page 595, Bradley, Circuit Justice, said, "I hold it to be a sound proposition, that no municipal or political body can be estopped by the acts or declarations of its officers from denying their authority to bind it * * The plea that the Plaintiffs are *bona fide* holders of the bonds cannot avail, when the defence is want of power to issue them. Of the defect the Plaintiffs were bound to have notice." See fully on this point the opinion of this Court, delivered by Mr. Justice Field in

Marsh *vs.* Fulton County, 10. Wall, 683-684.

"A municipal corporation can not, without legislative authority, issue bonds in aid of an extraneous object. Every person dealing in them must at his peril take notice of the existence and terms of the law which it is claimed conferred the power to issue them, no matter under what circumstances he may obtain them."

Town of South Ottawa *vs.* Perkins, 94 U. S., p. 261.
Township of East Oakland *vs.* Skinner, 94 U. S., p. 258.

In the case of the Township of East Oakland *vs.* Skinner, the Court said, Mr. Justice Hunt delivering the opinion, "We have held that a town can not subscribe for stock in a railroad corporation unless it has the authority of the legislature for the act. The legislature usually requires the approval of the electors of the town, at an election for that purpose as a condition to the subscription. Doubtless the legislature can impose or omit conditions in its discretion."

In Burroughs on Public Securities, the author, on page 262, says: "This power conferred on a majority of the tax-payers of a town to mortgage the property of all its citizens against the will of the minority for investment in railroads, is unknown to the common law, and depends solely on statutory enactment; and every step required by the statute must be taken in strict conformity with it."

The cases which have been decided upon the doctrine of "municipal decision" and estoppel by recitals, do not apply to this case, as we think.

The case of Knox *vs.* Aspinwall, 21 How., 544, is acknowledged to have extended the doctrine to its utmost limit, and in that case the recital was that the bonds were issued in pursuance of a legislative act. See further, as illustrative of this doctrine,

Town of Coloma *vs.* Eaves, 92 U. S., 490, 493.
Morey *vs.* Township of Oswego, 92 U. S., 637.
Humboldt Township *vs.* Long, 92 U. S., 642.
See, also, dissenting opinions in above cases.

The railroad bonds are simple money bonds whereby the Company acknowledges that it owes and binds itself to pay to A. B, or bearer, a sum of money at the Company's office in Savannah. The municipal obligations on the back of the bonds is in the following form: "For value received, the Mayor and Aldermen of the City of Savannah and the hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within Bond, principal and interest, as the same may become due according to the tenor and effect thereof."

The statement "as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859," may be taken as true, but there is no recital that the public meeting was called and acted under or in pursuance of the terms of any law. The meeting might have been purely a political one. So far as the guarantees convey any notice, they are upon their face *ultra vires*. They are promises to pay the debts of a private corporation. The railroad being built, the public had no interest in the solvency of the private corporation owning and operating it.

The *bona fide* holder in search of power to issue, must look beyond the declaration or recital in these guaranties. He must find some law. If he discovers the 8th Section of the said Act of 1856, he has no recitals to rely upon, except that there was a public meeting on the 14th May, 1859, which authorized these particular guaranties.

The Act of 1856 requires that the public meeting should have been called for the purpose of recommending the issue and disposition of municipal bonds for internal improvement.

The meeting when called should decide, first, whether the bonds should be issued; and secondly, should direct the manner of the issue and disposition of them by the municipality.

The Plaintiff in the Court below realized this necessity, that the burden to show the power to issue and the manner of issue and disposal was upon him.

He introdued the proclamation of the Mayor calling the meeting. The *purpose* of the meeting as shown by this proclamation was to ratify the action of the City Council already taken and to consider the propriety of the endorsement. The City Council influenced the vote of the meeting by acting in advance. The purpose as stated in the proclamation was not an internal improvement. What use was to be made of the bonds was not stated, and, for any thing that was disclosed at the meeting, the bonds might have been intended as donations by the Railroad Company to private citizens. The call should certainly have given notice that the purpose was to issue bonds for internal improvements, and the nature and kind thereof should have been stated. This part of the Act was not complied with.

The meeting did not comply with any other terms of the Act. They made no recommendations, and gave no directions about the issue and disposition of Bonds of any kind.

They ratified the prior action of the City Council, and pretended to authorize the guaranties. With the exception of perhaps a few who were in the secret, the citizens were not informed, and did not know what disposition was to be made of the Bonds. They did not know and probably never heard until the trial of this case that Major A. Porter, who addressed them and presented the resolutions which were adopted, expected to receive and afterwards did actually receive $17,500 of said Bonds in payment of a debt due the bank of which he was the President. If then we are correct in either of the positions taken, that is, that the power to issue and dispose of Bonds for internal improvements does not give the power to guarantee a Railroad Company's Bonds to be disposed of by the Company at its pleasure and discretion in payment of its private debts or otherwise; or if such a power could be fairly implied from the power to issue and dispose of Bonds, then that to make them valid it is necessary that the terms of the Statute must be strictly complied with, these guaranties are void and valueless in the hands of all persons.

THE CONSIDERATION.

The Circuit Judge charged the Jury that "the recital in this guaranty was made for value received, and the fact

that said guaranty was under seal, imparted a consideration for the guaranty."

If this is true it could be evidence only that the Municipal Corporation had, as is usual in guarantees for a consideration, received a price or premium for the contract of insurance. Such contracts unexplained, except by such recitals as are contained in the Bonds and guaranties and the legal import thereof, are certainly beyond the ordinary powers of a Municipal Corporation, are *ultra vires* and void.

In Georgia it is enacted, Code, § 1914: "A guaranty or an accommodation indorsement is not within the legitimate business of ordinary partnership." If not legitimate in a partnership, where each partner is the agent of the other and empowered to bind each other by bills, notes and other obligations, such a contract certainly is not legitimate when a Municipal Corporation, the governmental agent of a community, attempts to bind a people to pay the private debts of a private corporation.

Blake, *et al.*, *vs.* The Mayor of Macon, 54 Ga., p. 172.

The learned Judge, however, apparently not satisfied with leaving the guaranties to speak for themselves, charged the Jury further: "That the evidence, if credible, showed that there was a valid consideration moving to the Mayor and Aldermen of the City of Savannah for the guarantee sued on in this case."

This fact could not be gathered from the Act of 1856, nor the proceedings of the public meeting, nor from the minutes of the City Council. And it is to this evidence that the Court should have looked, as it is the only evidence which a holder claiming to be *bona fide* would be compelled to notice. From these sources of information it appears without doubt that the guaranties were for the accommodation of the Railroad Company, were contracts of insurance for which the city received no premiums, or at the most were donations of credit, for which the city could expect no other compensation than such as might flow from accommodation paper, or from the casting of bread upon the waters. We contend that neither the public meeting of citizens nor the City Council could authorize such donations in such a manner and on such evidence.

And if it would be proper to follow the bonds and guaranties into the possession of the Railroad Company, and investigate what disposition was made of them, at the will and discretion of that corporation, the question of the con-

sideration moving to the city is not at all changed. The bonds with the guaranties were disposed of as follows: $52,000 to Dr. James P. Screven, then President of the Company; $64,000 to the Merchants' and Planters' Bank, of which Hiram Roberts was the President; $17,500 to the Bank of the State of Georgia, of which Major A. Porter was President; $100,000 to pay an installment due the Atlantic & Gulf Railroad for the subscription by the Savannah, Albany & Gulf Railroad Company to the stock of the Atlantic & Gulf, and the balance sold and the proceeds deposited to the general account and mixed with the general funds of the Railroad Comyany. It still appears that nothing passed to or was received by the city. The witness, John Screven, said: "No proceeds of any of these bonds, so far as I know, could have gone into the City Treasury; they must have been appropriated otherwise."

Record, p. 39.

THE DISCHARGE OF THE GUARANTOR.

But if the defendant was ever bound on these guaranties, it has been discharged.

The contract was to insure the solvency of the corporation known as the "Savannah, Albany and Gulf Railroad Company," and not to insure the solvency of the Atlantic and Gulf Railroad Company.

On the 16th day of April, 1863, by an Act of the General Assembly of the State of Georgia, the two above mentioned Railroad Companies were consolidated into one, and a new corporation formed.

Railroad Company *vs.* Georgia, 98. U. S.

In the Act it was provided that "nothing herein contained shall relieve or discharge either of said Companies from any contract heretofore entered into by either, but this Company shall be liable on the same."

The Act in express terms added a new party to these contracts, and it is immaterial whether the new party is a surety or a joint and several maker.

If, after a note has been executed by a surety and delivered, a new surety signs the note, this is a material alteration which discharges the surety, notwithstanding the fact that it is to benefit him." * * *

"When a note, after it had been delivered was signed by a stranger as joint and several maker, it was held to be such an alteration as discharged the surety."

Brandt on Suretyship and Guaranty, §332.

These contracts were made and were to be performed in Georgia, and the law of that State should control in the enforcement.

Toomer *vs.* Dickerson, 37 Ga., 428.

In this last case it is said that "Whatever may be the rule of law in other States or other countries as to the discharge of securities from liability: yet in this State it is not now an open question. * * * This Court asserted and recognized the rule to be that whenever the creditor does an act whereby injury or loss, or liability to loss, or increased risk accrues to the surety without his assent, he is entitled to be discharged. And the Courts uniformly refuse to require of the surety to show that he has in fact been damnified."

"There must be an assent by the surety to the creditors *dealing* with the principal debtor, otherwise than in the manner pointed out by the contract; and it is no answer to say that it is for the advantage of the surety, or that he has sustained no prejudice."

Brandt on Suretyship and Guaranty, § 345.

And this Court has explicitly decided that a surety can never be bound beyond the scope of his engagement.

Miller *vs.* Stewart, 9th Wheaton, 234.
Leggett *et al vs.* Humphrey, 21 How., 76.
Smith *vs.* United States, 2 Wall., 233-235.

The creditor, in this case, has recognized the new party, and has received payment from that party since 1864. The declaration alleges: "Your petitioner duly demanded payment thereof from the Atlantic and Gulf Railroad Company, a corporation under the statutes of Georgia, having

its principal place of business in the City of Savannah aforesaid, and the lawful successor and representative under the statutes of Georgia, of the said Savannah, Albany and Gulf Railroad Company, and liable for the obligations of the same, and the bonds, coupons and writings obligatory aforesaid."

The declaration further alleges that the "Atlantic & Gulf Railroad Company had failed, and was totally and notoriously insolvent." There are no allegations as to the insolvency of the "Savannah, Albany and Gulf Railroad Company," or demand for payment from that Company. The creditor had long since lost sight of the only Company whose solvency had been guaranteed. He had been *dealing* all the while with the new party.

The consent of the defendant in this case was never given to the introduction of this new party, or to the dealings of the creditor with it. The Circuit Judge decided and charged the jury: "If the City of Savannah was a stockholder to the amount of a million of dollars, or other large sum, in the Savannah, Albany and Gulf Railroad Company, and had, as such stockholder, a representative in the Board of Directors of said Railroad Company, and such representative assented to the consolidation of the said Railroad Company with the Atlantic and Gulf Railroad Company, the assent of the City to such consolidation may in this case be inferred from such facts." The Court was in error here about the facts. The City of Savannah as a stockholder was represented at stockholder's meetings by a commissioner, but had no representative on the Board of Directors.

At a meeting of stockholders and as a stockholder of a private corporation, the city was not acting in its public or governmental capacity. It was not within her power as a stockholder in this Railroad corporation to have issued any bonds in aid thereof. To exercise such power it was necessary to act as the agent of the people whose property was to be taxed. Before that could be done it was necessary to call a public meeting of citizens. The purpose of the meeting being stated in the call, and then such action only as such a meeting might recommend and direct could be taken. There has been no public meeting called for the purpose of extending these guaranties, these contracts of insurance, to cover the solvency of the Atlantic and Gulf Railroad Company, and no consent whatever emanating from the citizens, the only persons who could consent, to change the original contract and introduce a new party, whose solvency was also to be insured.

The witness, John Screven, said: "At the stockholder's meeting the City was represented *as a stockholder* by a

commissioner. Think that at the meeting which authorized the consolidation, the City only voted *as a stockholder* through its commissioner. There was no public meeting of the citizens of Savannah called for the purpose of authorizing this vote."

Record, p. 39,

The City as a stockholder could not act under the power conferred to issue bonds. The rights of a State as a stockholder in a private corporation are different from those which appertain to her as a sovereign.

Darrington *vs.* Bank of Alabama, 13 How, pp. 12–17.
Curran *vs.* Arkansas, 15 How, p. 309.

These rules of law are harsh, but every one who purchased these Bonds and relied upon these guaranties, took with notice of the legal incidents and responsibilities which accompanied them and the risks appertaining to the peculiar obligations.

The contracts of guaranty should have contained a stipulation or covenant that the liability of the Defendant should continue whatever alterations might take place by act of the Legislature.

Mayor of Berwick *vs.* Oswald, 3 E. & B., 665 (77 E. C. L. R.), cited 30th Am., R., p. 794.

ACQUIESCENCE.

There have been no acts on the part of the taxpayers or the Defendant subsequent to the issue of these Bonds by the Railroad Company which can be construed into acquiescence.

The report of the Finance Committee made May 31st, 1877, after the said coupons were in default, in which these Bonds are classed as a "contingent liability" and an "undetermined responsibility" of the city, has no significance in aid of the case. Record, p. 41.

On the contrary, the Bill which was filed against the Mayor and Aldermen by certain citizens and to which the

said report was attached as an exhibit, charged that these very guarantees were wholly without authority of law, and null and void. Record, p. 40.

The answer of the Mayor and Aldermen averred that the corporation did not know whether they were issued or given without authority of law, that being a mere question of law it submitted itself to the decision of the Court.

That Bill was dismissed by Complainants at the February term of the Court in 1879.

The Mayor and Aldermen, however, did not pay or compromise or recognize any of said Bonds or coupons, but as alleged in the declaration in this case, failed and refused to pay said Bonds or coupons, or any part thereof, or to comply with its covenant and obligation to guarantee the payment of the said Bonds, principal and interest as the same became due according to the tenor thereof.

All coupons prior to January 1st, 1877, were paid by the Railroad Company. No part of them have ever been paid by the city. Record, p. 39.

Payment was promptly refused, and all liability denied as soon as any attempt was made to fix the obligation upon the Municipal Corporation as an alleged guarantor.

If these guaranties were originally without authority of law, then there can be no acquiescence which will make them valid.

Chisholm *vs* Montgomery, 2 Woods, p. 594–5.
Marsh *vs*. Fulton, 10 Wall, p. 676.

Under the facts of the case the Circuit Court was then in error in charging the jury: "Where the power to issue negotiable bonds may be fairly derived from the charter of a municipal corporation, and the power has been exercised and acquiesced in by the inhabitants and the authorities of the municipality and negotiable bonds issued under the power have before maturity come into the hands of innocent and *bona fide* holders for value, doubts and ambiguities will be resolved in favor of the power."

This charge pre-supposes the existence of the power, but in this case the existence of the power to make the guaranties is denied. Surely it cannot be true that doubts and ambiguities will be resolved in favor of an argument to create a power by legal construction. The authorities already cited in this brief, we think, establish a different rule

when the question is one of power or no power. Powers are never implied by resolving doubts and ambiguities in favor of their existence. Powers to a municipal corporation must be *expressly granted* and implied only when necessary to execute the express power already granted.

CONCLUSION.

The thirteenth and fourteenth assignments of error dispose of the whole case. The other assignments of error are mere reasons or inducements which caused the Court to reach the conclusion and to charge the jury that "the evidence in this case offered by the Plaintiff (there being none offered by the Defendant), if the jury believe it, would justify them in returning a verdict for the Plaintiff."

If the principles contended for by us are true, the Judge should have directed a verdict for the Defendant in the Circuit Court.

W. S. CHISHOLM,
A. R. LAWTON,
Counsel for Plaintiff in Error.

108-184

SUPREME COURT OF THE UNITED STATES.

No. .....

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH,

PLAINTIFFS IN ERROR,

vs.

EUGENE KELLY,

DEFENDANT IN ERROR.

BRIEF OF GEO. A. MERCER,

Attorney for Defendant in Error.

GEO. N. NICHOLS, Printer, Savannah, Ga.

No. .

IN THE SUPREME COURT OF THE UNITED STATES.

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH,

PLAINTIFFS IN ERROR,

VS.

EUGENE KELLY,

DEFENDANT IN ERROR.

This was a suit brought by the Defendant in Error in the Circuit Court of the United States for the Southern District of Georgia, against the Mayor and Aldermen of the City of Savannah, a Municipal Corporation located in the Southern District of Georgia, for the recovery of the amount due upon certain Guaranties of the said the Mayor and Aldermen printed upon the back of certain Coupon Bonds of the Savannah, Albany and Gulf Railroad Company.

The form of said Bonds is as follows:

No. $500.

UNITED STATES OF AMERICA,

STATE OF GEORGIA.

SAVANNAH, ALBANY AND GULF RAILROAD CO.

Know all Men by these Presents, That the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay,————or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the Company's office in Savannah.

In Testimony whereof, The Savannah, Albany and Gulf Railroad Company have caused this Bond to be attested on their behalf by their President and Secretary, and their common seal attached, this first day of January, 1859.

[Seal.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin) Five Hundred Dollars.

The form of the interest coupons on said Bonds is as follows:

SAVANNAH, ALBANY & GULF RAILROAD CO.

There is due to the bearer Seventeen $\frac{50}{100}$ Dollars, being the interest for 6 months on Bond No.——for $500, payable at the Company's office in Savannah, January 1st, 18—

$17.50. D. MACDONALD, *Treasurer.*

The form of the Guaranty printed on the back of said Bonds is as follows:

STATE OF GEORGIA.

For value received, the Mayor and Aldermen of the City of Savannah and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within Bond, principal and interest, as the same may become due, according to the tenor thereof.

Witness the hand of the Mayor with the seal of said corporation affixed.

[Seal of City.] THOMAS M. TURNER,
Mayor.

Attest:

EDWARD G. WILSON,
Clerk of Council.

The said the Mayor and Aldermen of the City of Savannah, pleaded as follows:

That it was not indebted.

That said guaranties were not its deed, because made without authority of law, and were void.

That said guaranties were not its deed, because made without any consideration moving to it therefor, of which the Plaintiff had due notice before he became bearer of the same.

That said guaranties were made without any authority of law, and were therefore void; and were made without any consideration moving to Defendant therefor; and were not made for value received; and were not made for works of internal improvement; and were not issued by said Defendant.

The Defendant, by its attorneys, afterwards filed an amended plea, setting out the minutes and proceedings of the said the Mayor and Aldermen, showing the facts and circumstances attending the issue of said bonds and guaranties, which said minutes are as follows:

Meeting of the City Council of Savannah, held April 28th, 1859.

Solomon Cohen, F. S. Bartow, and John W. Anderson, Esquires, appeared before the Board, and the following communications were read, viz.:

Resolved, That a Committee of three be appointed by the Mayor to consider the application of the Savannah, Albany and Gulf Railroad for the endorsement by the city of their Bonds for $300,000.

Alderman Boston offered the following amendment, which was adopted:

Resolved, That His Honor the Mayor be authorized to endorse the Bonds of the Savannah, Albany and Gulf Railroad to the sum of $300,000.

The yeas and nays were called for, with the following result:

Yeas—Aldermen Wylly, Falligant, Boston, Posey and Tucker.—5.

Nays—Aldermen Knapp, Guerard, Delannoy and Blair. —4.

Alderman Falligant offered the following resolution:

Resolved, That His Honor the Mayor, should he deem it illegal to endorse the Bonds of the Albany and Gulf Railroad, be authorized to call a public meeting of the citizens of Savannah to ratify the action of this Board, and if legal, that he be authorized to grant the request of the Board of Directors to endorse the Bonds of the Company to the amount of $300,000.

Alderman Guerard offered the following resolution:

And be it further Resolved, That the Mayor be authorized and empowered to arrange all details in reference to the form of such Bonds, and the time and place at which interest shall be paid, in conjunction with such Railroad.

The resolution and amendment were then unanimously adopted.

City Council of Savannah,

Meeting held May 26th, 1859.

The following proceedings of a public meeting of the citizens of Savannah was read, received, and ordered to be entered on the minutes.

PUBLIC MEETING.

In pursuance of the proclamation of His Honor the Mayor, a meeting of the citizens of Savannah was held in the Council Chamber of the Exchange on Saturday, the 14th inst., to take into consideration the propriety of authorizing the city to endorse the Bonds of the Savannah, Albany and Gulf Railroad to the amount of $300,000.

On motion of Wm. Duncan, Esq., Thomas M. Turner was called to the chair, and W. T. Thompson appointed Secretary.

Major A. Porter addressed the meeting in favor of the proposed endorsement of the Bonds by the city, and offered the following preamble and resolution:

WHEREAS, the Savannah, Albany and Gulf Railroad Company made application to the City Couhcil, at a meeting held 28th of April, to guarantee or endorse the Bonds of the said Railroad Company to the amount of Three Hundred Thousand Dollars;

AND WHEREAS, the City Council at said meeting did by vote authorize the Mayor to endorse said Bonds, and, if he had any doubts of the legality of such endorsement, to call a public meeting of the citizens to ratify the action of Council;

AND WHEREAS, the Mayor by his proclamation, dated the 11th of May, has called this meeting for that purpose:

Be it therefore Resolved, That this meeting hereby ratifies the vote of Council, and authorizes the Mayor and Aldermen of the City of Savannah to guarantee the Bonds of the Savannah, Albany and Gulf Railroad Company to an amount not exceeding $300,000, and to adopt the necessary steps to carry the same into effect.

The preamble and resolutions, being seconded, were unanimously passed.

On motion, the meeting adjourned.

THOMAS M. TURNER,
Chairman.

W. T. THOMPSON,
Secretary.

His Honor the Mayor stated that in compliance with said proceedings, and the resolution of Council, he had signed and executed the guarantee to the amount of $300,000.

On motion, the same was confirmed.

And said corporation, in its said amended plea, alleged that said resolutions and proceedings were not authorized by any law of the State of Georgia, and that said guaranties were without authority of law, and void. And in said amended plea it further alleged, that said guaranties sued upon were to pay said Bonds issued by said Savannah, Albany and Gulf Railroad Company, which said Company at that time was solvent and able to pay its said Bonds so guaranteed. That on April 18th, 1863, said Railroad, by an Act of the General Assembly of Georgia, was authorized to consolidate with the Atlantic and Gulf Railroad Company; that by virtue of said Act in said year 1863, the said two Companies did consolidate their stocks, and said new Company came into existence and became liable to pay said Bonds according to their tenor and effect, of all of which said Plaintiff had notice; that since said consolidation said Plaintiff has accepted said new Company as his

debtor, and collected the coupons of said Bonds from said new Company without any demand upon Defendant until January 1st, 1877, when said new Company became insolvent; that after said consolidation said new Company created liens and made mortgages on all the property of said Savannah, Albany and Gulf Railroad, whereby said property was appropriated to the payment of the debts of said new Company to the exclusion of said Bonds and coupons mentioned in Plaintiff's declaration; that all said acts and doings of said two Railroad corporations, and of said Plaintiff, were without the consent of Defendant, and without the recommendation of a public meeting of said citizens called for that purpose; and that thereby the nature of said contract had been changed, and the risk of said Defendant increased, and greater liability incurred.

The Jury, under charge of the Court, found a verdict in favor of said Plaintiff, and the said the Mayor and Aldermen of the City of Savannah filed its Bill of Exceptions.

The fact that the Mayor and Aldermen of the City of Savannah made the said guaranties, and that the seal of the city was affixed thereto, was admitted See Record.

The legal authority to make was alone denied.

The Plaintiff was the holder and bearer of said writings obligatory, and produced the same to the Jury.

In Collins *vs.* Gilbert, 4 Otto, 753, it is held that a negotiable instrument, payable to bearer, or endorsed in blank, produced, by a transferee suing to recover its contents, is, when received in evidence, clothed with the *prima facie* presumption that he became the holder of it for value at its date in the usual course of business, without notice of anything to impeach his title.

In Chambers County *vs.* Clews, 21 Wallace, 323, the Court say: To sustain their claim the Plaintiffs produce the Bonds and coupons The execution not being put in issue, this establishes the Plaintiff's case, and establishes presumptively that they are holders for value before maturity without notice.

In the late decision of Fair *vs.* Town of Lyons, U. S. Circuit Court N D. New York, cited in the Reporter, Vol. 14, No. 18, p. 547, the Court say: Municipal Bonds, payable to bearer, are deemed payable to holder, and he is not regarded as an assignee of the contract, but his title comes through a transfer by delivery.

No effort was made, however, to assail the right and title of the Plaintiff as holder of said guaranties.

Bonds with coupons payable to bearer, are negotiable securities, and pass by delivery; and in fact have all the

qualities and incidents of commercial paper; and the coupons may be sued separately.

Thomson *vs.* Lee County, 3 Wallace, 327.

Interest may be recovered on the coupons of such Bonds.

Gelpcke *vs.* City of Dubuque, 1 Wallace, 176.
See Amy *vs.* Dubuque, 8 Otto, 474.

In Georgia, Bonds payable to order or bearer, have stood upon the footing of commercial paper since our Judiciary Act of 1799: the *bona fide* holder stands like the holder of a promissory note.

Commissioners of Roads *vs.* Shorter, 50 Ga., 508.
And see Georgia Code of 1873, § 2787, 2789.

The main defence set up by the Mayor and Aldermen was that said guaranties were made without any legal authority, and were therefore void.

But prior to the discussion of this point, it will be proper to notice matters of defence presented by Defendant's pleas as hereinbefore stated. Defendant alleged that said guaranties were made without any consideration moving to it therefor, of which Plaintiff had notice before he became bearer; and that said guaranties were not made for value received, were not for works of internal improvement, and were not issued by Defendant.

It may be sufficient to say that these defences involved questions of fact upon which the Jury passed adversely to the Defendant.

The Court below instructed the Jury that the evidence, if credible, showed that there was a valid consideration moving to the Mayor and Aldermen of the City of Savannah for the guaranties; that the recital in the guaranty that it was made for value received, and the fact that said guaranty was under seal, imported a consideration; and that the evidence, if credible, showed that the Bonds guaranteed were issued for purposes of internal improvement within the meaning of the charter of the city.

And the Court instructed the Jury that if they believed the evidence offered by the Plaintiff, it would justify them

in returning a verdict for the Plaintiff, no evidence having been offered by the Defendant.

So the Jury passed upon such questions as could be determined by the evidence.

If a guaranty be under seal, this implies consideration.

2 Parsons on Notes and Bills, (edition of 1868), top p. 126.
Jones on Railroad Securities, § 189.
Douglass *vs.* Howland, 24 Wendell, 35.
Davis *vs.* Wells, 14 Otto, 162 (2).

And the Defendant did not introduce any evidence to show that no consideration flowed to it.

The words for value received in the guarantee import sufficient consideration to the city, and estop it.

Wain *vs.* Walters, 2 Smith's Lead. Cas., *289, top p. 318.
Douglass *vs.* Howland, 24 Wendell, 35.
Leonard *vs.* Vredenburgh, 8 John. R., *29.
Davis *vs.* Wells, 14 Otto, 167, 168.

The building of the Railroad was a sufficient consideration.

Sharpless *vs.* Mayor of Philadelphia, 9 Harris R., (21 Penn. State), p. 148, §§16, 20.

Where a guaranty is made at the same time with the principal contract, and becomes an essential ground of the credit given to the principal debtor, the whole is one transaction, and the consideration which sustains the one sustains the other.

3 Kent's Com., *122.
2 Parsons on Con., p. 7 and p 6, n. o.
Leonard *vs.* Vredenburgh, 8 John. R., *29.
Hunt, Adm'r, *vs.* Adams, 5 Mass. R, *361, *362.

It will be presumed, until proof is adduced to the contrary, that the guaranty was contemporaneous with the delivery or negotiation of the instrument, and that the consideration implied in the one enured for the support of the other.

Wain *vs.* Walters, 2 Smith's Leading Cases, *291, top p. 321, and cases cited.

The evidence introduced by Plaintiff showed that said guaranties were made and issued contemporaneously with the delivery or negotiation of the Bonds and coupons, were intended to give them credit, and had that effect. The witnesses, John Screven and A. L. Hartridge, so testify. The minutes of the City Council of Savannah, introduced by Plaintiff, show that the said Savannah, Albany and Gulf Rail Road Company requested the Mayor and Aldermen to endorse its Bonds to the amount of $300,000, at a meeting of the City Council held April 28th, 1859; that a public meeting of citizens, held May 14th, 1859, sanctioned the request, and that at a meeting of the Board of Directors of said Savannah, Albany and Gulf Railroad Co., held May 18th, 1859, the President stated that Bonds of the Company to the amount of $300,000 had been prepared and received, and asked what disposition should be made of them; and it was resolved, that, when said Bonds were perfected, certain disposition should be made.

See Record, as printed, pp. 35, 36.

At the meeting of the City Council, held May 26th, 1859, the Mayor stated that in compliance with the previous proceedings of Council, and of said public meeting, he had signed and executed the guaranties to the amount of $300,000; and, on motion, the same was confirmed. So that it is clear that the making and issue of the guaranties was contemporaneous with the delivery or negotiation of said Bonds.

The guaranties were made and issued "for the purposes of contributing to works of internal improvement," and "for purposes of internal improvement," within the meaning of the City Charter hereinafter set forth.

The minutes of said corporation—which it was required to keep, see Wilson's Digest, p. 107—and which it set out

in its defence, were competent evidence of its acts and admissions.

See 1 Dillon on Municipal Cor., §§231, 242, 241, and Note 4.
Owings *vs.* Speed, 5 Wheaton, *420, *424.
Denning *vs.* Roome, 6 Wendell, 651, 656.

It appears from these minutes that the Defendant was asked to endorse Bonds to be issued by said Railroad Company, required to pay its indebtedness, its subscription to the Albany and Gulf Railroad, which was a prolongation or continuation of its own road, and for workshops, passenger and freight houses, located in the City of Savannah. The application was granted, and the sanction of a public meeting given, in accordance with the request made. The purpose sought to be accomplished by said guaranties was the equipment and completion of said Railroads. Witnesses testified that they had largely increased the business and prosperity of the city.

To constitute a work one of internal improvement, it is only necessary that its purpose should be public.

e. g. Railroads and Turnpikes.
See Jones on Railroad Securities, § 225, Note 2, 227, 226, end.
Mayor of Wetumpka *vs.* Newton, 23 Alabama R., 660.

Depots and side tracks of a railroad are works of internal improvement.

See Township of Rock Creek *vs.* Strong, 6 Otto, 276.

A bridge intended for and used as a public highway is a work of internal improvement, though demanding tolls.

County Commissioners *vs.* Chandler, 6 Otto, 205.

In Bass *vs.* Mayor, &c., of Columbus, 30 Georgia, 845, &c., the Supreme Court of Georgia held in 1860 that the Legislature had the right (in 1858) to authorize a municipal corporation to aid a Railroad; and that Railroad improvements, by which the commerce and business and general prosperity of the place is promoted, is as legitimate a corporate purpose as police regulations, the construction of streets and supplying the town with water, &c., p. 849; that the interest of the corporation is the only true test of the corporate character of the act, p. 850; and that cities all over the State of Georgia, and country, have frequently contributed in their corporate capacity to roads, canals and other improvements without exciting alarm, or being suspected of oppressing their communities, or of invading unjustly any salutary principle of the social system, p. 851.

This case settles the policy and practice prevailing in Georgia at the time these Bonds and Guaranties were issued.

The Legislature had full constitutional right to confer such power upon municipal governments.

See Cobbs' Digest, p. 1115, § 21.
Beall *vs.* Bealls, 8 Ga., 216, (4.)

Wilson's Digest of the Ordinances of the City of Savannah, p 234 to 238, shows that the city did pass ordinances providing for contribution to Railroads as works of internal improvement. See Idem, pp. 17, 18, 19, showing the Bonds issued by the City of Savannah to aid Railroads. The Legislature, by Act approved February 18th, 1856 (hereinafter recited), settled all doubts as to the validity of such "Bonds issued and disposed of by the City of Savannah for internal improvements."

See Wilson's Digest, p. 526, § 8.

So that this is a Legislative declaration, that Bonds so issued by the City of Savannah to aid Railroads were issued for purposes of internal improvement.

See also Thomson *vs.* Lee County, 3 Wallace, 327 (1.)
Rogers *vs.* Burlington, 3 Wallace. 663. 664.
Railroad Co. *vs.* County of Otoe, 16 Wallace, 676, 677.

It is urged that said guaranties are invalid because issued to pay the debts of a Railroad corporation. But the evidence shows that the Savannah, Albany and Gulf Railroad Company only required $140,000—to $150,000—to pay debts contracted by it, and that the residue of the $300,000 was needed to construct necessary Railroad buildings, and to pay a balance of subscription to the Atlantic and Gulf Railroad Company, a mere extension of its own track.

If the city could not legally assist a Railroad to pay its debts, the burden of proof would at least rest upon the Defendant to show that the particular instruments sued on were issued for such unlawful purpose, and not for the construction of depots and necessary buildings. This onus would not be thrown upon the innocent holder.

See the decision of the Supreme Court of South Carolina in G. M. Walker, Cashier, *et al.*, *vs.* State of S. C., decided April Term, 1879, and reported in 12 South Carolina, R., p. 200.

But the evidence showed that the debts of the Savannah, Albany and Gulf Railroad had been incurred for the building of the road, the lenders had advanced the money for the construction of the road.

See Record (as printed) p. 39.

Money supplied to a Railroad to enable it to pay its debts already incurred for construction, and to go on and complete, equip and run its road, would aid it just as effectually as if applied to the construction in the first instance. The city certainly had a discretion to determine whether such application of the Bonds was calculated to aid the road as a work of internal improvement. A broad authority to aid works of internal improvement gives a large discretion as to the means or manner of best extending the aid. The charter of the city did not limit its assistance to the original building of the road, but broadly embraced "purposes of internal improvement." The aid rendered by one road in the building of another, and the payment of debts incurred for construction, were very clearly factors in accomplishing purposes of internal improvement.

The Atlantic and Gulf Railroad to which the Savannah, Albany and Gulf Railroad had subscribed, was chartered February 27th, 1856, and the latter was authorized to join

its track with that of the former; so that to aid the building of the former was only extending the line of the latter.

See Act recited further on.

The last plea of the Defendant, put in by way of amendment, was to the effect that a novation of the original contract had occurred, without the consent of Defendant, that Plaintiff had accepted the new Railroad Company as his debtor, and that the nature of said contract had been changed, and Defendant exposed to greater risk and liability.

The evidence, however, failed entirely to disclose any novation of the original contract, or that Plaintiff had ever agreed to accept the new Company as his debtor, or to release the old Company, or that the nature of the original contract had been changed, or Defendant exposed to any greater risk or liability as the guarantor of said original contract.

The Court below therefore charged the Jury that no actings or doings of the Savannah, Albany and Gulf Railroad Company, or of the Atlantic and Gulf Railroad Company, or of both of them, without the consent of the holder of the guaranteed Bonds, could relieve the responsibility of the guarantor; and that Plaintiff did not waive any of his rights against the guarantor by going to the office of the Atlantic and Gulf Railroad Company, after the consolidation, and there receiving payment of some of the coupons of his Bonds.

The original charter contemplated the construction of a Railroad from the City of Savannah to Albany, in the State of Georgia, to be known as the Savannah and Albany Railroad Company.

Acts of 1847, p. 190.

By Act approved February 20th, 1854, the name was changed to the Savannah, Albany and Gulf Railroad Company.

Acts of 1853–4, p. 454.

By Act approved February 27th, 1856, the Legislature chartered the Atlantic and Gulf Railroad Company, with power to construct and maintain a Railroad from a point

as near as practicable to the intersection of the lines of the counties of Appling, Ware and Wayne to the western boundary of the State of Georgia at any point between Fort Gaines and the junction of the Flint and Chattahoochee rivers.

The Savannah, Albany and Gulf Railroad Company, and the Brunswick and Florida Railroad Company, and either of them were authorized to join their tracks with the track of said Atlantic and Gulf Railroad Company, with equal privileges, and without discrimination against either of them, it being the declared intention of the State by said Act to provide a main trunk railway across her territory connecting the Atlantic with the Gulf of Mexico. Sec. 6.

And it was provided that no iron and no superstructure should be laid on said Atlantic and Gulf Railroad until the Brunswick and Florida Railroad, or the Savannah, Albany and Gulf Railroad, shall have formed a connection with the said Atlantic and Gulf Railroad, and the cars be running up on one or other of the said Railroads. Sec. 2.

See Acts of 1855–6, p. 158.

By Act approved April 18th, 1863, the Savannah, Albany and Gulf Railroad Company and the Atlantic and Gulf Railroad Company were authorized to consolidate their stocks upon such terms and conditions as should be agreed upon by the Directors of said Railroad Companies and ratified by a majority of the stockholders thereof; and the said Railroad Companies when so consolidated shall be known as "The Atlantic and Gulf Railroad Company;" provided that nothing herein contained shall relieve or discharge either of said Companies from any contract heretofore entered into by either, but this Company shall be liable on the same.

Acts of 1862–3, p. 223.
See Railroad Co. *vs.* Georgia, 8 Otto, 359, &c.

It appears, therefore, that, so far from there being any change in the nature of the contracts made by the Savannah, Albany and Gulf Railroad Co. prior to said consolidation, said Company was expressly left liable for all its contracts, and the new or consolidated Company was also made liable therefor.

Bouvier says that in every novation the old debt is wholly extinguished by the new.

Law Dic., vol. 2, novation, p. 241 (3).

A change of the nature of terms of a contract is called a novation; such novation, without the consent of the surety, discharges him.

Code of Georgia of 1873, §2153.

So that not even a surety is discharged unless the terms of the contract be altered without his consent.

The contracts sued upon were contracts of guaranty and not of suretyship.

See President, &c., Oxford Bank *vs.* Haynes, 8 Pickering, 423.

The consideration of a contract of suretyship is a benefit given to the principal debtor; the consideration of a contract of guaranty is a benefit flowing to the guarantor.

Code of Georgia of 1873, §2148.

The increased trade and commerce to be brought to the city by the building of the Railroad was the benefit flowing to the city as guarantor.

Even a surety is not discharged because the holder takes additional security from the principal debtor; for, if the terms of the original contract remain unchanged, this is a benefit and not an injury to the surety.

See U. S. *vs.* Hodge, 6 Howard, 279, where the holder took a mortgage from the principal debtor, and gave time to pay it; there being no agreement for a valuable consideration to give time to the debtor personally, and the mortgage being only collateral security, the surety was not released.

See Eastern Union Railway Co. *vs.* Cochrane, 9 Exchequer R., 197, a case almost precisely in point.

A surety is discharged by a novation only where it is made without his assent. Even could the consolidation of the two Railroad Companies have had such an effect, the city consented to said consolidation.

The Court below charged the Jury that if the city was a stockholder to a large amount in the Savannah, Albany and Gulf Railroad Co., and as such had a representative in the Board of Directors, and such representative consented to the consolidation, the assent of the city might be inferred from said facts.

See Record, as printed, pp. 45 and 46.

So the Jury passed upon the assent of the city as a question of fact.

See testimony of the witness John Screven in Record, as printed, p. 40.

The city subscribed one million dollars to the stock of said Savannah, Albany and Gulf Railroad Co., and two hundred thousand dollars to the stock of the Atlantic and Gulf Railroad Co., on October 22nd, 1856, before said consolidation.

See Wilson's Digest, pp. 18, 19, and testimony of John Screven in Record, as printed, p. 40.

In Exhibit A, to the answer of the city to the bill filed against it by Butler *et al.*, 12,383 shares Atlantic and Gulf Railroad stock appear among its assets. It could only have acquired ten thousand of these shares by means of the consolidation of the two Companies, to which it must therefore have assented.

A demand was made for the payment of the Bonds and coupons sued on, and notice of non-payment given to the guarantor, the Mayor and Aldermen of Savannah.

But where there is an absolute guaranty of the promise of another to pay a debt, no notice is required.

3 Kent's Com., *124.
2 American Leading Cases, p. 133.

And the guarantor can only avail himself of the want of notice by way of defence, to the extent of the injury he may sustain.

3 Kent's Com., *124.
2 American Lead. Cases, top p. 120, 121.
Davis *vs.* Wells, 14 Otto, 170.

If the principal debtor is notoriously insolvent, no demand or notice is required.

The record in this case conclusively shows that the principal debtor was insolvent, and that the Mayor and Aldermen of Savannah were fully aware of the fact when the Bonds and coupons in question became due.

2 American Lead. Cases, top pp. 132, top.
Shaw *vs.* Bill, 5 Otto, 10 (3), 14 and 15.

The Defendant below alleged in several of its pleas that it had no legal authority to make and issue the guaranty in question, and this may be considered its main defence. The Court below held that it possessed this power under its charter.

It will therefore be necessary to examine the terms of said charter.

Courts will judicially notice the charter of a municipal corporation without being specially pleaded, when declared to be a public statute, or when public or general in its nature or purposes.

See 1 Dillon on Munic. Cor., 2nd Edition, § 50, 355, and Note 1, end.

In Georgia, all laws and resolutions of the General Assembly, as published by authority, shall be held, deemed and considered public laws, and recognized judicially without proof.

See Code of 1873, § 3815.

And the guarantor can only avail himself of the want of notice by way of defence, to the extent of the injury he may sustain.

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2 American Lead. Cases, top p. 120, 121.
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Courts will judicially notice the charter of a municipal corporation without being specially pleaded, when declared to be a public statute, or when public or general in its nature or purposes.

See 1 Dillon on Munic. Cor., 2nd Edition, § 50, 355, and Note 1, end.

In Georgia, all laws and resolutions of the General Assembly, as published by authority, shall be held, deemed and considered public laws, and recognized judicially without proof.

See Code of 1873, § 3815.

And the guarantor can only avail himself of the want of notice by way of defence, to the extent of the injury he may sustain.

3 Kent's Com., *124.
2 American Lead. Cases, top p. 120, 121.
Davis *vs.* Wells, 14 Otto, 170.

If the principal debtor is notoriously insolvent, no demand or notice is required.

The record in this case conclusively shows that the principal debtor was insolvent, and that the Mayor and Aldermen of Savannah were fully aware of the fact when the Bonds and coupons in question became due.

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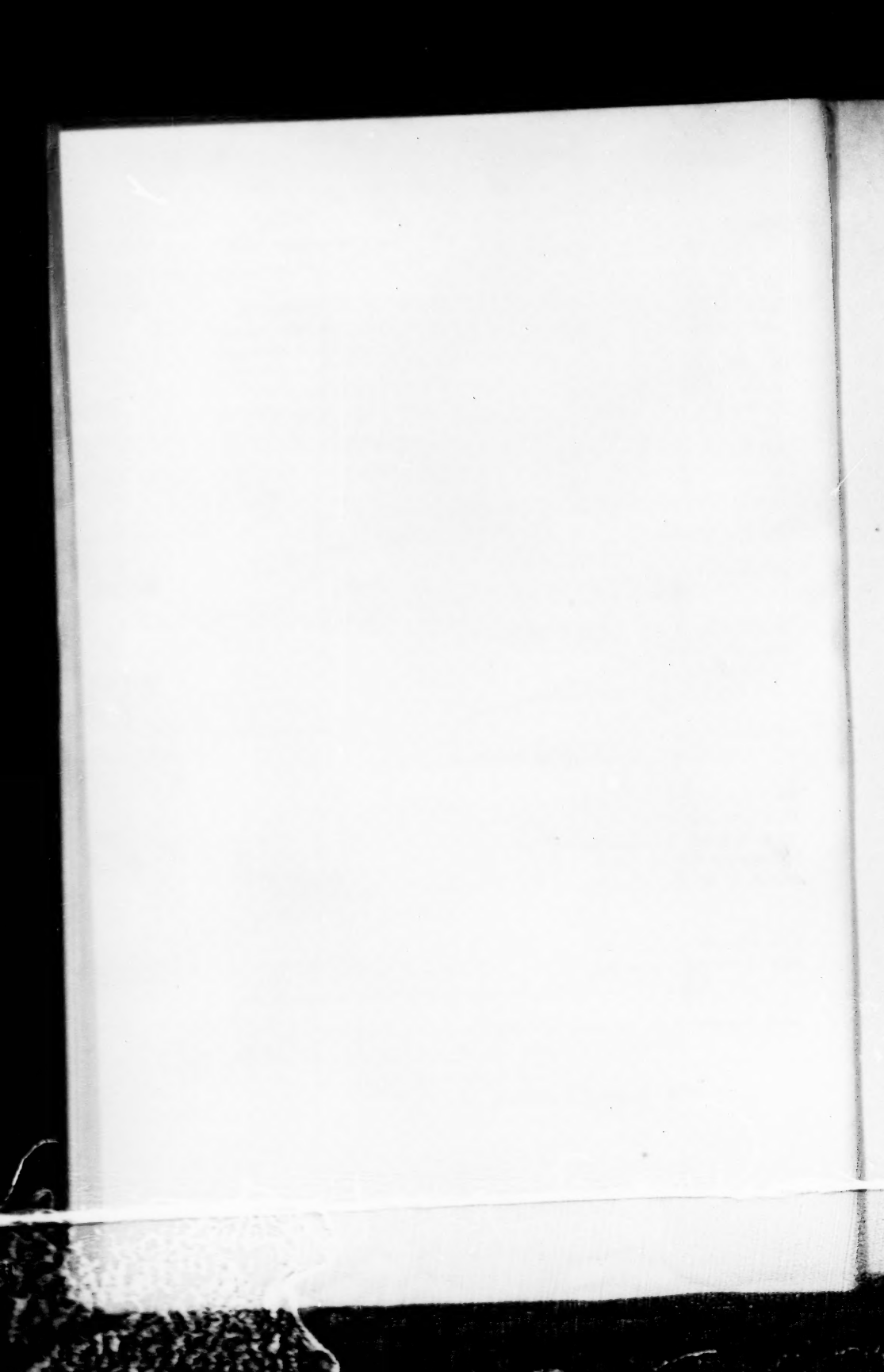

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See Code of 1873, § 2815.

A printed copy published by authority is *prima facie* evidence of a charter.

1 Dillon on Munic. Cor., § 51.

The ordinances of the City of Savannah, published by authority, are made evidence in the Courts of Georgia to the same extent that the laws of the State so published are evidence.

Code of 1873, § 4872.

The charter of the City of Savannah, as published by authority, applicable to the question at issue, is as follows:

State law, assented to December 24, 1825, Sec. 8, enacts that the Mayor and Aldermen, or a majority of them, shall have the power and authority to borrow money or contract loans for the use of the city, both from bodies corporate or from individuals, either residing in or out of the State, and to pledge the funds or property of the corporation of the City of Savannah and the hamlets thereof for the redemption of such loan or loans; and also shall have power to purchase any real or personal estate for the use and benefit of the corporation, and sell and dispose of all or any part of the property, domain, land, or lots, or any personal property to the said corporation belonging or appertaining, by lease for years, or fee simple, as to the said Mayor and Aldermen, or a majority of them, shall seem meet and proper.

Wilson's Digest, p. 514.

State law assented to December 27th, 1838, Sec. 5, enacts, that the Mayor and Aldermen of said city be and they are hereby authorized and empowered to obtain money on loan, on the faith and credit of said city, for the purposes of contributing to works of internal improvement.

Wilson's Digest, pp. 518, 519.

State law assented to December 8th, 1849, Sec. 3, enacts, that the Mayor and Aldermen of the City of Savannah and

the hamlets thereof be and they are hereby vested with full power and authority, from time to time, to make, ordain, and establish such by-laws, rules, regulations, and ordinances as shall appear to them requisite and necessary for the security, welfare and convenience of the said city, or for preserving health, peace, and good government within the present or future limits of the same.

Wilson's Digest, p. 521.

State law approved March 4th, 1856, Sec. 8, enacts, that whereas doubts have been entertained whether certain Bonds, issued and disposed of by the City of Savannah, for internal improvements, were legal and valid, therefore be it further enacted, that all Bonds heretofore issued by the constituted authorities of the City of Savannah, are hereby declared legal and valid, and from and after the passage of this Act, the Mayor and Aldermen of the City of Savannah and the Hamlets thereof, upon the recommendation of a public meeting of the citizens of Savannah, called for that purpose, shall have power and authority to cause Bonds to be issued and disposed of in such manner as they may direct, for purposes of internal improvement, which Bonds, so issued, shall be legal and valid.

Wilson's Digest, p. 526 (8.)
Acts of 1855-6, p. 390.

In Gelpcke *vs.* City of Dubuque, 1 Wallace, 221, this Court held that where a vote of two-thirds of the electors was required, to validate debts, the holder was not obliged to aver such vote, but that the vote would be presumed, and the want of it would be matter of defense.

In Meyer *vs.* Muscatine, 1 Wallace, 393, the Court say a party taking the Bonds was bound to look to the legal authority under which the public agents acted. If that were sufficiently comprehensive, he had a right to presume that those empowered to act, and acting under it, had complied with its requirements.

See Mercer County *vs.* Hacket, 1 Wallace, 83.
Commissioners of Knox Co. *vs.* Aspinwall, 21 Howard, 539.

But in construing the extent of authority conferred by the charter of a public or municipal corporation, the same general rules of construction must prevail that apply to the charter of a private corporation.

Thus if the charter does not prescribe a particular mode or manner of contracting, a municipal corporation, within the compass of its powers, may contract just as a private corporation or individual could.

See 4 Wait's Actions and Defences, p. 603.

In Napier *vs.* Poe, 12 Georgia, 179, (3, 6), the Court say that the Act defining the powers of certain State Commissioners is not to be so strictly construed as to divest them of all discretion as to the manner of doing those things which are specified, if the manner is not expressed; and that the rules applicable to agencies generally apply to agencies created by the State.

In Bass *vs.* Mayor &c., of Columbus, 30 Georgia, 849, the Court say that on the construction of charters Courts never confine themselves to the letter, but whatever is necessary and proper to carry into execution, the power conferred is always conceded.

In U. S. *vs.* Babbitt, 1 Black, 61, this Court say that what is implied in a statute is as much a part of it as what is expressed. A thing within the intention of the makers of a statute is as much within the statute as if it were within the letter.

Gelpcke *vs.* City of Dubuque, 1 Wallace, No. 81, pp. 220, 221.

Express authority to a municipal corporation "to borrow money," includes the power to issue its negotiable bonds, or other usual securities, to the lender.

1 Dillon on Munic. Cor., § 83.

In Police Jury *vs.* Britton, 15 Wallace, 572, this Court, by Mr. Justice Bradley, say: We do not mean to be understood that it requires, in all cases, express authority for such bodies to issue negotiable paper. The power has frequently been implied from other express powers granted. Thus it has been held that the power to borrow money implies the power to issue the ordinary securities for its repayment, whether in the form of notes, or bonds payable in future.

In the Mayor *vs.* Ray, 19 Wallace, 468, Justices Bradley, Miller, Davis and Field gave it as their opinion that a city corporation whose charter conferred no power to borrow money, did not possess the inherent or incidental authority to borrow money and issue negotiable obligations for its repayment. Justices Hunt, Clifford, Swayne and Strong did not concur in this opinion. Justice Hunt considered it well established by the authorities that a municipal corporation may borrow money for the legitimate use of the corporation, and that it may issue its notes for the same, unless expressly prohibited. p. 483.

In Meyer *vs.* City of Muscatine, 1 Wallace, 384, this Court held (Mr. Justice Miller dissenting) that where the charter of a city authorized it to borrow money for any object in its discretion, although this power was found among powers of a nature strictly municipal, it could issue bonds to aid in the construction of railroads; and that no express power was necessary.

In Rogers *vs.* Burlington, 3 Wallace, 654, this Court held, (Justice Field, the Chief Justice, and Justices Grier and Miller dissenting), that power "to borrow money for any public purpose" authorized a municipal corporation to aid a Railroad Company by issuing its Bonds, and delivering them to the Railroad Company to sell and raise the money; that the town was not limited to a technical borrowing of the money, and paying it over to the Railroad Company. pp 665, 667. See, also, on the last point, Meyer *vs.* Muscatine, 1 Wallace, 392.

Town of Venice *vs.* Murdoch, 2 Otto, 501.

In Hitchcock & Co. *vs.* City of Galveston, 2 Woods C. C. R., Judge Woods held, that to pay out Bonds is in effect a borrowing of money on them. p. 280.

See Louisiana *vs.* Wood, 12 Otto, 294, 298.

In Copes *vs.* Charleston, 10 Richardson's South Carolina Law R, the Supreme Court held in 1857 that under the general authority to pass ordinances (see p. 494) the City of Charleston could subscribe to the stock of Railroad Companies within and without the State, p. 501, &c.

In Payne *vs.* Mayor of Brecon, 3 Hurlstone and Norman's R, *379, *380, the Court held that there was nothing in the Municipal Corporation Act to prevent the corporation from entering into the covenant under consideration, and that "in order to avoid, this covenant, it must appear that it was a covenant which the corporation were forbidden by statute to enter into."

In the cases cited, and many others which might be referred to, powers were conceded to municipal corporations where no express grant could be found, and no strong implication could be derived from the terms of the charter.

The scope and meaning of every municipal charter must be determined in accordance with the usual rules of legal construction.

It is argued that it is foreign to the purpose of a municipal corporation to become a surety, endorser, or guarantor; but it is equally foreign to its ordinary scope and purpose to borrow money at all; such a corporation is presumed to require money only for strictly municipal uses, and to raise the same by the exercise of its power of taxation.

See this leading idea strongly put in the judgment of the Court, delivered by Mr. Justice Bradley, in the Mayor *vs.* Ray, 19 Wallace, 475, 477.

The real question in each case is: What does the charter expressly grant or fairly imply?

The Act of December 27th, 1838, expressly authorized the Mayor and Aldermen "to obtain money on loan, on the faith and credit of said city, for the purposes of contributing to works of internal improvement."

Wilson's Digest, pp. 518, 519.

It would be difficult to frame broader or more unrestricted authority; the city was expressly empowered to obtain money on loan; and no method being indicated, the means or manner was left discretionary.

It was empowered to obtain it on the faith and credit of the city; no particular method or manner of pledging its

faith and credit was suggested. It was empowered to obtain it for the purposes—comprehending all the purposes—of contributing to works—comprehending all works—of internal improvement.

Under this broad charter, the city certainly had a right to obtain money for the purposes indicated, either by loan directly to itself, or to such Railroad corporation, or other work of internal improvement, as it might prefer. It was authorized to contribute to such works, and the word implies donation. It was not limited to a right to subscribe to the stock of a Railroad Company, and to issue its Bonds, or pledge its credit, in payment of such subscription.

A donation to works of internal improvement may be authorized by the Legislature.

See Railroad Co. *vs.* County of Otoe, 16 Wallace, 667, 675 and 676.
Town of Queensbury *vs.* Culver, 19 Wallace, 82.

The purchasers of these Railroad Bonds, so guaranteed by the city, lent and advanced their money, for the use and benefit of said Railroad, on the faith and credit of the city; and the city, by its action and guaranty, obtained said money, by means of said loan and advance, on its faith and credit, for the purpose of contributing to the work of building and completing said Railroad.

It was the clear import of the city charter, prior to the Act of March 4th, 1856, that the city might issue its negotiable Bonds for the purposes indicated. It did issue such Bonds, and the Act of 1856 removed any doubt that could attend such issue.

At the time these Bonds were issued, it was a common practice in Georgia for cities to contribute to works of internal improvement, both in and out of the State.

See Bass *vs.* Mayor, &c., 30 Georgia, 850, 851.

ble to the City of Savannah *in force at this date*, Savannah, 8th March, 1858."

The book of city ordinances, published by authority of the Mayor and Aldermen, and promulged as such by said authority, are made evidence in the Courts to the same extent as laws of the State, as published by authority, are made evidence.

Code 1873, §§4872, 3815.

When said Bonds and guaranties were issued in 1859, the published Charter and Ordinances of the city declared the Act of 1838 to be in force. The Mayor and Aldermen recognized said Act as still in force; and, as against innocent holders of said guaranties, are now estopped to assert the contrary.

These guaranties were in themselves Bonds of the City of Savannah. They were obligations in writing under the corporate seal.

The amendment offered by Alderman Guerard, and which was unanimously adopted by the Mayor and Aldermen in Council, was as follows: *Resolved*, That the Mayor be authorized and empowered to arrange all details in reference to the form of such Bonds, and the time and place at which interest shall be paid, in conjunction with said Railroad.

Placing the Bond of the city upon the back of another Bond, was merely a matter of form; the obligation was none the less a Bond.

Bouvier defines a Bond to be "an obligation in writing and under seal."

1 Bouvier Law Dic., p. 212.

These sealed guaranties respond fully to every definition of a bond.

Any writing under seal, denoting the intention of the party to bind himself for the payment of a sum of money, is a Bond.

1 Wait's Actions and Defenses, p. 672.
2 Parsons' on Contracts, 5th Ed., top, p. 512.
Commonwealth *vs.* Smith, *et al.*, 10 Allen, Mass. R., p. 455.

As to what constitutes a seal see Code of Georgia, §5.
Jones on Railroad Securities, §189.

Where a guaranty is placed upon the back of a bond the bond will be referred to, to supply any uncertainties or deficiencies in the guaranty ; they will be read together.

See U. S. *vs.* Maurice, et al., 2 Brockenborough R., p. 114.
Wain *vs.* Walters, 2 Smith's Lead. Cases, (6 Amer. Ed.) *291 top p. 320, 321
Miller *vs.* Gaston, 2 Hill, N. Y. R., p. 191.

The Mayor and Aldermen guarantee the payment of the within bond, principal and interest, as the same may become due, according to the tenor thereof.

The guaranty will be read thus:

For value received, the Mayor and Aldermen, &c., promise to pay to ——, or bearer, if the Savannah, Albany & Gulf Railroad Company shall make default, the sum of $500, &c., with interest thereon, &c., according to the tenor of the bond, that is, in the words of the same.

It has been frequently held that a guaranty of this character can be treated as an original promise, and that the guarantor can be sued as an original co-promissor.

If the Mayor and Aldermen, under the Act of 1856, had executed and issued the bonds for $500 each, made and issued by the Savannah, Albany & Gulf Railroad Co., no one could question the liability of the city to pay said bonds. If the city can be treated as a co-promissor with said railroad company, then its liability to pay said bonds seems equally apparent. Its guaranty is simply its obligation under seal, its bond, to pay the bond of the railroad company according to the tenor thereof.

In Miller *vs.* Gaston, 2 Hill, New York R., p. 188, it was held that a third person endorsing the words, "I guarantee the payment of the note within," on a note at the time it is given, such third party being in privity to the consideration of the note, could be treated as a joint and several maker of the note. Bronson, Judge.

In Manrow *vs.* Durham & Moulthrop, 3 Hill. New York R., p. 584, held that the endorsement on a promissory note,

"we guarantee the payment of the within note," made before said note was due, was in legal effect a promissory note.

In Hunt, Adm'r, *vs.* Adams, 5 Mass. R., *359, A made a promissory note payable to B.; C. writes underneath "I acknowledge myself holder as surety for the payment of the demand of the above note." In an action against C. it was held to be a joint and several promise.
Parsons, C. J.

In Fowler *vs.* MacDonald, 4 Cranch, Cir. C. R., p. 297, MacDonald wrote at the foot of a note made by Duncan, "I will pay the above at maturity," held to be an original undertaking which need not express the consideration.

In Rey, et al., *vs.* Simpson, 22 Howard, 350, the Court, by Mr. Justice Clifford, say, that if a person puts his name on the back of a note at the time it is made to give the maker credit with the payee, or if he participated in the consideration for which the note was given, he must be considered as a joint maker of the note.

In Thompson *vs.* High, 13 Georgia R., 313, the Supreme Court, by Lumpkin, Judge, say, that where the Defendants name was put on the back of a note, he must have intended to make himself liable, either as guarantor or as an original promissor, "and the authorities make but little distinction as to the liability in either of these relations."

In Hough *vs.* Gray, 19 Wendell, R., *202, the Court held, by Cowen, Judge, that the Court below were clearly right in holding that one who endorsed an absolute guaranty upon a note payable to A., B., or bearer, at the time of the making thereof, made himself a joint and several promissor with the maker of the note, *203.

In Ketchell *vs.* Burns, 24 Wendell R., *456, the Court, by Chief Justice Nelson, held that a guaranty of this kind amounts to an absolute promise to pay the note if the maker fails at the day; that it was a new note for the payment of the money, *457.

Even if the Act of 1856 by implication repealed the Act of 1838, the Court below held that the Act of 1856 authorized the Mayor and Aldermen to make said guaranties. They were authorized, upon the recommendation of a public meeting of the citizens of Savannah, called for that purpose, to cause Bonds to be issued and disposed of in

or a Bond making the City liable only upon certain conditions, or under certain circumstances, or in the second instance only, or duplicates of the Railroad Bonds conditioned to be void when those paid and that such Bonds would have been valid.

In Bonner *vs.* City of New Orleans, 2 Woods, Cir. C. R., p 136, the Court held that the Railroad Company, having power to endorse Bonds, could have qualified its endorsement.

The City of Savannah had unquestioned power, under the Act of 1856, to aid Railroads by issuing its Bonds making it absolutely liable without qualification; but it is contended that it could not incur a lesser liability, and obligate itself to pay certain amounts if another party also bound made default.

If the City could by its Bond in the form of a guaranty just as effectually aid a work of internal improvement, and secure the building of a Railroad, upon what principle should it be restricted to the issue of Bonds making it primarily liable. By issuing said guaranties it relieved itself from the payment of $21,000 interest per year for about eighteen years, say $375,000 00; so that the City received actual benefits from the manner in which its obligations were issued. If the City by its Charter had the power to cause written obligations under seal to be issued in aid of internal improvements, whether or not it should make itself primarily liable, or liable as a guarantor, whether or not its obligation should be issued separately or on the back of some other obligation were matters left to discretion. The right to direct the manner of issue was expressly granted.

In County of Daviess *vs.* Huidekoper, 8 Otto, pp. 100, 101, the Court, by Mr. Justice Hunt, say: That if the agents of a local government exceed their authority as to form, manner, detail, or circumstances, or if they execute it in an irregular manner, the loss must fall on the town or county, and not on the purchaser of the obligation; the question to be determined is whether there is an irregularity in the exercise of an existing power, or whether there is total want of authority to act.

The City of Savannah had an unquestioned authority to cause Bonds to be issued in aid of internal improvements.

See Railroad Co. *vs.* County of Otoe, 16 Wallace, p. 675.

The City of Savannah when it agreed, upon the application of the Railroad Company, to guarantee the Bonds of the latter to the amount of $300,000, was only protecting its own interests and property. By ordinance of September 23d, 1853, the Mayor was authorized to subscribe one million dollars to the capital stock of the Savannah and Albany Railroad Company.

Wilson's Digest, p. 18, No. 25.

On January 1st, 1859, the city held $1,000,000 stock in the Savannah, Albany and Gulf Railroad Company.

See Testimony of John Screven in Record *77.

A further issue of Bonds—to the amount of $300,000—was required to complete and equip said Railroad. Savannah, not only from the commercial advantage expected from said road, but also as the largest stockholder, was directly interested in its completion.

Even in the absence of the broad authority and large discretion conferred by the charter of the city, we submit that the decisions of this and other Courts sustain the validity of said guaranties.

The rights of a Railroad Company to guarantee the Bonds of another company may be implied from authority to aid such other company.

See Jones on Railroad Securities, §352.

In Zabriskie *vs.* Cleveland, &c. R. R. Co., 23 Howard, 381, the Court sustained the legality of the guaranty of the Bonds of another Railroad Company, made under the authority of a general law of Ohio, empowering Railroad Companies "by means of their subscription to the capital stock of any other company or otherwise to aid such other Railroad Company." This decision does not rest upon the general or implied powers of Railroad corporations, but upon the construction of the law, and applies equally to the construction of a municipal charter.

In Railroad Co. *vs.* Howard, 7 Wallace, 392, this Court held that under the laws of Iowa, a Railroad Company

having power to issue its own Bonds in order to make its road, may guarantee the Bonds of cities and counties which have been lawfully issued, and are used as the means of accomplishing the same end. The point was directly made by counsel for appellants that the guaranty was *ultra vires* and void, pp. 397 and 398. The Court say that the record showed that the Railroad Companies could issue their own Bonds, and that it was difficult to see why they could not guarantee the payment of such bonds as they had received, and put them on the market instead of their own as the means of accomplishing the same end; pp. 412, 413.

See Railroad Co. *vs.* County of Otoe, 16 Wallace, 675.

In Adams *vs.* Memphis, &c., Railroad Co., 2 Caldwell, 645, cited in Mayor *vs.* Ray, 19 Wallace, 479, the Supreme Court of Tennessee held that the Mayor, &c., of Memphis, under a power in the charter to sell, lease, and dispose of the property of the corporation, for the use and benefit of the city, could mortgage the corporation property to secure the Bonds and interest of said Railroad Company.

In the City of Memphis *vs.* T. E. Brown, 1 Flippin R, on p. 198, 199, the Court, in commenting upon said decision, say that the Charter of Memphis contained no special provision authorizing said action. The Supreme Court of Tennessee deduced the right to make the mortgage and the instrument of guaranty solely from the general implied power of the corporation.

In said case of Memphis *vs.* Brown, 1 Flippin, 188, the Circuit Court of the United States for the Western District of Tennessee, Emmons, Judge, in March, 1872, held that the City, without any special authority, could contract in the form of a guaranty, the Court say that this objection was made the object of an extended and separate considertion at the bar, and that it had been distinctly and pointedly overruled, by certain cases referred to, and by many similar judgments, p. 200.

In People's Bank *vs.* National Bank, 11 Otto, 181, the Court, by Mr. Justice Swayne, held that the National Bank was not prohibited by law from guaranteeing the note of a third party, and that such guaranty was valid. The National Banking Act conferred no express authority to guarantee.

National Banks are as much creatures of statute as municipal corporations, and similar rules of construction of the grant of power apply.

In National Bank *vs.* Matthews, 8 Otto, 626, the Court say, "the intent, not the letter, of the statute constitutes the law."

When municipal obligations, issued under the exercise of a doubtful authority, have passed into the possession of *bona fide* holders, the corporation will be estopped to put a different construction upon its authority to issue, although the issue might, perhaps, have been restrained in the first instance.

Bonds declared to be valid, by judicial construction, cannot be rendered invalid by subsequent judicial construction.

See Jones on Railroad Securities, §276.
Thomson *vs.* Lee County, 3 Wallace, 327 (2), 330, 331.

Havemeyer *vs.* Iowa County, 3 Wallace, 294, the Court say, they can look only to the condition of things which subsisted when the Bonds were sold.

The same principle applies to the construction placed upon its own charter by a municipal corporation. The record shows that the Mayor and Aldermen had the legality of said guaranties under consideration of the committee of three appointed by the Board of Directors of the Railroad Company, who appeared before the Mayor and Aldermen and urged the endorsement of the Bonds, Francis S. Bartow and Solomon Cohen were eminent lawyers.

See testimony of John Screven.

The City Council unanimously adopted a resolution that, should the Mayor deem it illegal to endorse the Bonds, he be authorized to call a meeting of the citizens of Savannah to ratify the action of the Board, (which had authorized him to endorse said Bonds); and that, if legal, he be authorized to endorse said Bonds. Alderman Guerard, a lawyer, offered a resolution that the Mayor be authorized, in conjunction with said Railroad, to arrange all details in

reference to the form of such Bonds, &c. This resolution was unanimously adopted.

The City had a corporation attorney.

See Wilson's Digest, p. 118, 119, No. 110.

The presumption is that the Mayor consulted him, as it was his duty to do.

The Mayor doubting his right to make and issue said guaranties, without the sanction of a public meeting of citizens, by his proclamation, called said meeting to consider the question.

By a large meeting of citizens so called authority to guarantee said Bonds was *unanimously* granted. The guaranties were made and issued in pursuance of said authority, and were placed upon the market as legal and valid obligations of the city. They gave credit to the Bonds of said Railroad Company, and from their issue in 1859, for a period of eighteen years, and until the insolvency of the Railroad Company, and its failure to pay the interest coupons, no suggestion or intimation was ever made by said Mayor and Aldermen that said guaranties were illegal or invalid.

They were issued and put upon the market in 1859 as valid obligations of the city, by the unanimous concurrence in opinion of the city authorities and the citizens, after the question of their legality had been first considered.

The record shows that on July 9th, 1877, Butler, *et al.*, filed their Bill in Equity in the Superior Court of Chatham County against said Mayor and Aldermen, alleging that certain Bonds and obligations theretofore issued, were issued without authority of law and were void, and that said guaranties were void. Exhibit A to said Bill set forth a schedule of said obligations so alleged to be void.

The Mayor and Aldermen filed their answer to said Bill, July 20th, 1877. The answer admitted that Exhibit A contained a correct statement of the liabilities of said city, and averred that it did not know whether any, or if any, which of the said bonds and notes were issued or given without authority of law. So that the said the Mayor and Aldermen up to July 20th, 1877, failed and refused to aver that said guaranties were invalid, though the charge was expressly made in said bill that they were.

See Zabriskie *vs.* Cleveland, &c., Railroad Co., 23 Howard, 398, 400, 401.

Bissell *vs.* City of Jeffersonville, 24 Howard, 287, 299.

In Mercer County *vs.* Hackett, 1 Wallace, 83, 94, the Commissioners of Mercer County had issued Bonds in payment of a subscription to railroad stock, and the bonds were denied upon the ground that they were issued without legal authority, the Court, by Justice Grier, says, it would be contrary to good faith and common justice to permit them to allege a newly discovered construction of an equivocal power after they have sold the bonds and they have passed into the hands of *bona fide* purchasers for value, p. 94.

In Meyer *vs.* City of Muscatine, 1 Wallace, p. 391, the Court, by Mr. Justice Swayne, say, if the subject admitted of doubt, we should hold that the city, having acted upon its own construction and drawn in others to take the securities and advance their money upon it is now concluded from denying that construction to be the true one.

See James *vs.* Milwaukie, 16 Wallace, 161, 162.
Woodhull *vs.* Beaver County, 3 Wallace, Junior, 274, Grier, Judge, delivering the opinion of the Court.

In the City of Memphis *vs.* Brown, 1 Flippin, U. S. Circuit Court R., 188, held that when contracts have been made, acts done and labor performed, in pursuance of a construction of a city charter, acquiesced in by all its citizens competent by such an interpretation, it will be sustained, if justified by any possible reading of the statutes.

In Van Hostrup *vs.* Madison City, 1 Wallace, 297, the Court, by Mr. Justice Nelson, say, that power existed in the Defendants to issue the bonds in question, but that, "even if the case had been doubtful, inasmuch as the city authorities have given this construction to the charter, and bonds have been issued, and in the hands of *bona fide* purchasers for value, we should have felt bound to acquiesce in it."

In view of the authorities referred to the Court below very properly held, that when the power to issue negotiable bonds may be fairly derived from the charter of a municipal corporation, and the power has been exercised and acquiesced in by the inhabitants and the authorities of the municipality, and negotiable bonds, issued under the power, have before their maturity come into the hands of innocent and *bona fide* holders for value, doubts and ambiguities will be resolved in favor of the power.

The cases mainly relied upon by the Plaintiff in Error in the Court below have no application to the question at issue.

In the Bank of Genesee *vs.* Patchin Bank, 3 Kernan, p. 315, it was held that the bank could not become an accommodation endorser and endorse the paper of other parties in which it had no interest.

But in this case the Mayor and Aldermen of Savannah were interested in internal improvements, and were authorized to contribute to them, and the method or manner of such contribution was not specified or restricted.

In Louisiana State Bank *vs.* Orleans Navigation Co., 3 Louisiana Annual R., (1848,) it was held that the city could not give its guaranty in aid of said Navigation Co. But the city had no authority to aid said company directly. See p. 311, 314.

Judge Eustis says: "the nature of a contract depends entirely upon the obligation it imports; its form is subordinate to its real character." p. 303. That the rights of corporations are fixed by the Code of Louisiana; that no express authority is given to enter into the contract of suretyship, and no general authority from which it could be implied or even fairly deduced under plea of usage, necessity, convenience, or any reasonable compatibility with the public interest. p. 310. The powers given are merely administrative—"a mandate in its simplest form." p. 308.

The case does not decide that if the city had any authority at all to aid in building the canal it could not do so by its guaranty.

In Clark *vs.* City of Des Moines, 19 Iowa R., 201, (15,) it was held that a city cannot lend its credit, or make its accommodation paper, for the benefit of citizens, to enable them to execute private enterprises, and in this case the Mayor alone issued scrip, when the charter required the authority of the City Council. p. 214, 215.

In Smead *vs.* Indianapolis, &c., R. R. Co., 11 Indiana R., 105, it was held that the company could not execute accommodation paper to aid an undertaking not contemplated by their charter. The company had no general authority to execute promissory notes and bills of exchange, and the Court held that they could only make such as were

necessary or proper to carry out the specific purpose of building a railroad from one specified point to another.

In Blake, *et al.*, *vs.* Mayor, &c., of Macon, 53 Ga., 172, the Court held that an Act of the Legislature authorizing a municipal corporation to subscribe for stock in railroads and to issue bonds to pay for the same, did not authorize a gratuitous endorsement of the bonds of a street railroad, which the Court say was a private enterprise. p. 177 (3.)

The amended charter of Macon, under which the power to endorse was claimed, gave no authority to contribute to works of internal improvement, or to donate the credit of the city.

See Acts of 1871–2, p. 121, secs. 159, 160.

The legislative intent, as expressed in said Act, was that the city, upon the vote of a majority of the Council, ratified by a vote taken by ballot of two-thirds of the legal voters of said city who should vote at the election ordered for the purpose, might subscribe for the stock of railroads or other internal improvements. The Court say this implies a consideration, and that the city gets the stock; it does not authorize a gratuitous donation of the credit of the city.

53 Ga., p. 176 (1), 177 (3.)

The charter of the City of Savannah authorized it to contribute to works of internal improvement, and did not limit its power to a subscription for stock; and the Savannah, Albany and Gulf Railroad Co. was not "a private enterprise," like this street railroad, but a great public work of internal improvement, in which the City of Savannah was a shareholder to the extent of a million dollars.

In the Macon case the application was for injunction to prevent the endorsement, not to have it declared void, after the lapse of many years, when contemporaneous construction had adjudged it valid, and the bonds had passed into the hands of innocent holders.

See Woodhull *vs.* Beaver Co., 3 Wallace, Jr., 274.

Even if these obligations of the City of Savannah were issued without any authority of law, and were originally void, they were subsequently ratified and made valid.

By Act of the General Assembly of Georgia of December 9th, 1858, provision was made for the election of three Commissioners to prepare a Code of Georgia. The Code so prepared was submitted to the Legislature, and on December 19th, 1860, was adopted as the Code of Georgia, to be of force and take effect on the first day of January, 1862.

See original Code of Georgia. Preface III, IV, IX. Long *vs* State, 38 Georgia, 509.

By Act of 1861 the time was extended to January 1st, 1863.

This Code declared that all bonds theretofore issued by the Mayor and Aldermen of Savannah, and still outstanding, were legal and valid.

The Code in many respects altered the Charter of Savannah, and in effect made a new charter.

Section 4761 enacts that the said Mayor and Aldermen shall have power to borrow money and contract loans for the public good, and to subscribe for works of internal improvement which in their judgment may be to the interest of said city, and to issue bonds and pledge the property, faith and credit of the city for the payment of such subscriptions; provided no subscription or outlay of money shall be made for any such work out of the city, except upon the recommendation of a public meeting of the citizens of Savannah called for the purpose; and all bonds heretofore issued by said Aldermen, and still outstanding, are hereby declared legal and valid.

The language of this Act is very different from that of the Act of 1856.

See Wilson's Digest, p. 526 (8.)

It is perfectly competent for the Legislature to render legal and valid bonds and obligations issued, or acts done, without legal authority.

See Jones on Railroad Securities, §278.
Winn *vs.* Macon, 21 Georgia, 275.
Bass *vs.* Columbus, 30 Georgia, 845, 852.

The General Convention of Georgia of 1865 adopted this Code bodily, and made it law as it then read from the date of said adoption.

See Long *vs.* State, 38 Georgia, 509.

Both the Legislature of Georgia, and the convention of the people, adopted this Code, and thereby enacted a new charter for the City of Savannah; and, as part of said charter declared, that "all Bonds" previously issued by the Mayor and Aldermen of Savannah, and still outstanding were legal and valid.

These guaranties were Bonds of said city, and still outstanding; they were obligations in writing under seal; they answered every definition of a Bond, and answered no other description. They were clearly included in the term "all Bonds."

The Revised Code of Georgia embodied section 4761 of the original Code heretofore quoted.

See Revised Code, §4758.

The Georgia Constitution of 1868 adopted the Revised Code.

See Constitution of 1868, in Code of 1873, §5145.

So that two different conventions of the people adopted a Code of laws enacting a new charter for the City of Savannah, and declaring, as part thereof, that all Bonds of said city previously issued were legal and valid.

Said Bonds in the form of guaranties were not excepted; they were included in the broad language of said Act.

For the reasons stated, we respectfully submit that said obligations, in the form of guaranties, are legal and valid instruments, and that the Mayor and Aldermen of the City of Savannah are bound, both legally and morally, to pay them.

We may add that the people of said community, chiefly concerned in her permanent reputation and welfare, must sooner or later appreciate the value of a judgment which shall constrain the municipal government to a faithful redemption of its solemn pledge. Individual discredit may perish with the brief existence which it taints; but the moral blight, which follows the violation of public faith, acquires the enduring quality of the corporate life.

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108-191

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 199.

THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH, PLAINTIFFS IN REROR.

vs.

A. M. MARTIN.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF GEORGIA.

FILED MARCH 17, 1880.

SUPREME COURT OF THE UNITED STATES.

No. 199.

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1 UNITED STATES OF AMERICA,
Southern District of Georgia, ss:

[SEAL.] At a stated term of the 5th circuit court of the United States of America for the southern district of Georgia, held at the United States court-rooms, in the city of Savannah, in and for the said district, on Tuesday, the ninth day of December, in the year of our Lord one thousand eight hundred and seventy-nine.

Present, the honorable Wm. B. Woods, judge of the fifth judicial circuit of the United States.

A. M. MARTIN
vs.
THE MAYOR AND ALDERMEN OF THE CITY OF Savannah. } Action on bonds and coupons.

Be it remembered that heretofore, to wit, on the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and seventy-nine, came the above-named plaintiff, by George A. Mercer, his attorney, and filed his declaration in said cause against the said defendant in the fifth circuit court of the United States, for the southern district of Georgia, in the words and figures following, to wit:

2 *Declaration.*

To the honorable the judges of the circuit court of the United States for the southern district of Georgia:

The petition of A. M. Martin, who avers himself a citizen of and residing in the State of South Carolina, shows that he complains of The Mayor and Aldermen of the City of Savannah, a municipal corporation under the statutes of the State of Georgia, a citizen of said State, located and having its domicil in the county of Chatham, in the southern district of Georgia aforesaid, of a plea of breach of covenant, for that, whereas, heretofore, to wit, on the first day of January, eighteen hundred and fifty-nine, the Savannah, Albany and Gulf Railroad Company, a corporation under the statutes of Georgia, and located and having its principal place of business in the city of Savannah, and county of Chatham, in the southern district of Georgia aforesaid, by twenty-two certain bonds or obligations in writing, then and there made by said corporation, bearing date the day and year last aforesaid, and numbered respectively 582, 578, 599, 291, 585, 285, 265, 324, 579, 583, 338, 525, 523, 321, 336, 325, 297, 287, 264, 294, 322, and 323, sealed with the common seal of said corporation, and signed and attested by the president and secretary thereof, did
3 acknowledge to owe and bind itself to pay to , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars on each of said bonds as principal, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the coupons annexed to said bonds respectively at the said company's office in Savannah. And the said corporation did by said coupons annexed to said bonds respectively duly acknowledge to be due to the bearer thereof seventeen dollars and fifty cents, being the interest

for six months on said bonds respectively, to which said coupons were attached, payable on the first day of January and the first day of July in each year thereafter. One hundred and ten (110) of said coupons, each for said amount, due respectively as follows: Twenty-two of said coupons due January first, 1879; twenty-two other coupons due July first, 1878, twenty-two other coupons due January 1st, 1878; twenty-two other coupons due July first, 1877, and twenty-two other coupons due January first, 1877, and bearing the numbers of the bond to which they belonged, being now due and unpaid, besides interest upon each and all of the same from the time of the maturity thereof. And whereas the said defendant then and there, to wit, at the date of the issue of said bonds and contemporaneously with the issue of the same and of the said coupons annexed
4 thereto, for value received, and upon the recommendation of a public meeting of the citizens of Savannah, called for that purpose, did, by its writing obligatory made, with the seal of said corporation affixed, signed by its mayor and attested by its clerk of council on the back of each of said bonds, guarantee the payment of the within bond, principal & interest, as the same became due according to the tenor thereof, as will more fully appear from copies of each of said writings obligatory hereto attached as a part of this petition, and which said writings obligatory your petitioner now brings here into court.

And whereas also heretofore, to wit, on the first day of January, eighteen hundred and fifty-nine, the Savannah, Albany and Gulf Railroad Company, a corporation under the statutes of Georgia, and located and having its principal place of business in the city of Savannah, and county of Chatham, in the southern district of Georgia, aforesaid, by twenty-two (22) certain bonds or obligations in writing, then and there made by said corporation, bearing date the day and year last aforesaid, and numbered respectively 582, 578, 599, 291, 585, 285, 265, 324, 579, 583, 338, 525, 523, 321, 336, 325, 297, 287, 264, 294, 322, and 323, sealed with the common seal of said corporation, and signed and attested by the president and secretary thereof, did acknowledge to owe, and bing itself to pay to , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, as principal
5 on each of said bonds or writings obligatory, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the coupons annexed to said bonds respectively, at the said company's office in Savannah. And the said corporation did, by said coupons annexed to said bonds respectively, duly acknowledge to be due to the bearer thereof seventeen dollars and fifty cents, being the interest for six months on said bonds respectively, to which said coupons were attached, payable on the first day of January and the first day of July in each year thereafter, one hundred and ten (110) of said coupons, each for said amount, due respectively, as follows: Twenty-two of said coupons due January first, 1879; twenty-two of said coupons due July first, 1878; twenty-two of said coupons due January first, 1878; twenty-two of said coupons due July first, 1877, and twenty-two of said coupons due January first, 1877, and bearing the numbers of the bond to which they belong being now due and unpaid, besides interest upon each and all of the same, from the time of the maturity thereof.

And whereas the said defendent then and there, to wit, at the date of the issue of said bonds, and contemporaneously with the issue of the same and of the said coupons annexed thereto, for value received, and upon the recommendation of a public meeting of the citizens of Savannah
6 called for that purpose, did, by its writing obligatory duly made, with the seal of the said corporation affixed, signed by its mayor and attested by its clerk of council on the back of each of said bonds, guarantee the payment of the within bond, principal and interest, as the same became due according to the tenor thereof, as will more fully appear from copies of each of said writings obligatory hereto attached as a part of this petition, and which said writings obligatory your petitioner now brings here into court.

And petitioner shows that the said defendant, for value received, and for purposes of internal improvement, did cause the said bonds or writings obligatory, so duly made as aforesaid, to be issued in the manner aforesaid, and did thereby pledge its faith and credit for the due payment thereof, as thereunto duly authorized; and that your petitioner, relying upon the faith and credit of said defendant, so publicly pledged as aforesaid, in due course of trade, before the said bonds and coupons became due as aforesaid, and for value, did become and still is the lawful bearer of the same.

And the petition of the said A. M. Martin further showeth that the said defendant is indebted to him in the sum of eleven thousand dollars ($11,000.00), besides interest for coupons and interest thereon,
7 on twenty-two bonds or writings obligatory, dated each January first, eighteen hundred and fifty-nine, duly made by the defendant on the same number of bonds or writings obligatory made by the Savannah, Albany and Gulf Railroad Company, a corporation under the statutes of Georgia, the said bonds or writings obligatory being numbered, respectively, 582, 578, 599, 291, 585, 285, 265, 324, 579, 583, 338, 525, 523, 321, 336, 325, 297, 287, 264, 294, 322, and 323, payable to bearer, and each due twenty years after the date thereof, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, according to coupons annexed to said bonds respectively, one hundred and ten of said coupons being now due, the payment of which said bonds and coupons the said defendant, for value received, by its writing obligatory, under its seal placed upon the back thereof, and contemporaneously with the issue thereof, did guarantee the payment of the within bonds, principal and interest, as the same became due according to the tenor thereof, as will more fully appear from copies of said writings obligatory hereto attached as a part of this petition, and which said writings obligatory the said defendant refuses to pay.

8 And your petitioner further shows that the said bonds and coupons or writings obligatory became due and payable, respectively, at the dates aforesaid, to wit, the principal of the bonds on the first day of January, eighteen hundred and seventy-nine, and the coupons as follows: twenty-two coupons on January first, 1879; twenty-two coupons on July first, 1877, and twenty-two coupons on January first, 1877; and that on the days when the same so became due and payable your petitioner duly demanded payment thereof from the Atlantic and Gulf Railroad Company, a corporation under the statutes of

Georgia, having its principal place of business in the city of Savannah aforesaid, and the lawful successor and representative, under the statutes of Georgia, of the said The Savannah, Albany and Gulf Railroad Company, and liable for the obligations of the same, and the bonds, coupons, and writings obligatory aforesaid.

And your petitioner shows that at and before the time of said demand, and the time when said bonds and coupons became due respectively, the said Atlantic and Gulf Railroad Company had failed, and was totally and notoriously insolvent, and that said bonds and coupons, so far as they derived any value or credit from said company, were worthless; and
9 that said company was unable to pay said bonds and coupons, and neglected and refused to pay the same or any part thereof when payment was demanded as aforesaid.

And your petitioner shows that upon the failure of said company to pay as aforesaid, he at once gave notice, to wit, upon the days and years last aforesaid, of said demand and refusal to the said defendant, and then and there duly demanded payment of said defendant, and the said defendant then and there failed and refused to pay said bonds or coupons, so due as aforesaid, or any part thereof, or to comply with its said covenant and obligation to guarantee the payment of the said bonds, principal and interest, as the same became due according to the tenor thereof.

And so your petitioner in fact says that the said The Mayor and Aldermen of the City of Savannah, although requested so to do, has not kept the said covenants or complied with the writings obligatory so by it made as aforesaid, or paid the said amounts or any part thereof, but has broken the same, and to keep the same with your petitioner has wholly neglected and refused, and still does neglect and refuse, to your petitioner's damage thirty thousand dollars.

And thereupon your petitioner brings suit and prays process may
10 issue requiring the said defendant to be and appear at the next term of said court, to be held in the city of Savannah, on the second Monday in April (1879) next, to answer in the premises.

GEO. A. MERCER,
Plaintiff's Att'y.

Copy bond attached to declaration.

No. 323.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their presi-

dent and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

11 Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 323 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 323 for $500, payable at the company's office in Savannah July 1st, 1878.

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Georgia, having its principal place of business in the city of Savannah aforesaid, and the lawful successor and representative, under the statutes of Georgia, of the said The Savannah, Albany and Gulf Railroad Company, and liable for the obligations of the same, and the bonds, coupons, and writings obligatory aforesaid.

And your petitioner shows that at and before the time of said demand, and the time when said bonds and coupons became due respectively, the said Atlantic and Gulf Railroad Company had failed, and was totally and notoriously insolvent, and that said bonds and coupons, so far as they derived any value or credit from said company, were worthless; and
9 that said company was unable to pay said bonds and coupons, and neglected and refused to pay the same or any part thereof when payment was demanded as aforesaid.

And your petitioner shows that upon the failure of said company to pay as aforesaid, he at once gave notice, to wit, upon the days and years last aforesaid, of said demand and refusal to the said defendant, and then and there duly demanded payment of said defendant, and the said defendant then and there failed and refused to pay said bonds or coupons, so due as aforesaid, or any part thereof, or to comply with its said covenant and obligation to guarantee the payment of the said bonds, principal and interest, as the same became due according to the tenor thereof.

And so your petitioner in fact says that the said The Mayor and Aldermen of the City of Savannah, although requested so to do, has not kept the said covenants or complied with the writings obligatory so by it made as aforesaid, or paid the said amounts or any part thereof, but has broken the same, and to keep the same with your petitioner has wholly neglected and refused, and still does neglect and refuse, to your petitioner's damage thirty thousand dollars.

And thereupon your petitioner brings suit and prays process may
10 issue requiring the said defendant to be and appear at the next term of said court, to be held in the city of Savannah, on the second Monday in April (1879) next, to answer in the premises.

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In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their presi-

dent and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

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Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

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There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 322, for $500, payable at the company's office in Savannah, January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

15 No. 294.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany & Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany & Gulf Railroad Company hereby acknowledge' to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsement:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

16 Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6

months on bond No. 294 for $500, payable at the company's office in Savannah January 1st, 1879.
17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 294 for $500, payable at the company's office in Savannah July 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 294 for $500, payable at the company's office in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest
17 for 6 months on bond No. 294 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 294 for $500, payable at the company's office in Savannah, January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

No. 264.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

18 Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 264 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 264 for $500, payable at the company's office in Savannah July 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest
19 for 6 months on bond No. 264 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 264 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{51}{100}$ dollars, being the interest for 6 months on bond No. 264 for $500 payable at the company's office in Savannah, January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 287.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany & Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany & Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay,

, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

20

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 287 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

21

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 287 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 287 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6

months on bond No. 287 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 287 for $500, payable at the company's office in Savannah, January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

22 No. 297.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledge to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

23 Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 297 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 297 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 297 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest
24 for 6 months on bond No. 297 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 297 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 325.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

25 Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment

of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 325 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being interest for 6 months on bond No. 325 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

26 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 325 for $500, payable at company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 325 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 325 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 336.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents, that the Savannah, Albany and Gulf Railroad Company hereby acknowledge to owe, and binds itself to pay, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven
27 per cent. per annum, payable semi-annually, on the first days of

January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 336 for $500, payable at the company's office in Savannah January 1st, 1879.

28

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 336 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 336 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 336 for $500, dollars, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars being the interest for 6 months on bond No. 336 for $500, dollars, payable at the company's office in Savannah, January 1st, 1877.

D. MACDONALD, *Treasurer.*

$17.50.]

29 No. 321.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents, that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per ann'm, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

(Endorsement.)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

30 Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 321 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest

for 6 months on bond No. 321 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 321 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest
31 for 6 months on bond No. 321 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 321 for $500, payable at the company's office in Savannah, January 1st, 1877.

$17\frac{50}{100}$.] D. MACDONALD, *Treasurer.*

No. 523.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July of each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Co. have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin :) Five hundred dollars.

32 Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.
[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:
EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 523 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 523 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

33 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 523 for $500, payable at the company's office in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 523 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 523 for $500, payable at the company's office in Savannah January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

No. 525.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven
34 per cent. per annum, payable semi-annually, on the first days of Jan-

uary and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest
35 for 6 months on bond No. 525 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 525 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 525 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 525 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 525 for $500, payable at the company's office in Savannah January 1st 1877.

$17.50.] D. MACDONALD, *Treasurer.*

36 No. 338.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Co. hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, the first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and the hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

37 Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 338 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 338 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 338 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 338 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

38 Savannah, Albany & Gulf Rail[illegible]ued.

[illegible]ORNER, *Mayor.*

There is due to the bearer seventeen $\frac{50}{100}$ [illegible] for 6 months on bond No. 338 for $500, payable at [illegible] office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 583.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

39 (Endorsement:)

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the pay-

ment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 583 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for
In [illegible] on bond No. 583 for $500, payable at the company's office in
pany have caused this [illegible]
[illegible] and secretary, and [illegible]

D. MACDONALD, *Treasurer.*

40 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 583 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 583 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 583 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 579.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the
41 United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of

January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and the hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest
42 for 6 months on bond No. 579 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 579 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 579 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 579 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 579 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

43 No. 324.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office, in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and the hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the
44 payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor, with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 324 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for

6 months on bond No. 324 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 324 for $500, payable at the company's office in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

45 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 324 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 324 for $500, payable at the company's office in Savannah January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

No. 265.] UNITED STATES OF AMERICA. [$500

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad
46 Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*
D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.
[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*
Attest:
EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 265 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

47 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 265 for $500, payable at the company's office in Savannah July 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 265 for $500, payable at the company's office in Savannah January 1st, 1878.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 265 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 265 for $500, payable at the company's office in Savannah January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

48 No. 285.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

49 Witness the hand of the mayor with the seal of the said corporation affixed.

[SEAL OF CITY.] THOMAS TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 285 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 285 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 285 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 285 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

50 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest

for 6 months on bond No. 285 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 585.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

51 Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 585 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 585 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

52 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 585 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 585 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 585 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 291.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful
53 money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

54 There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 291 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 291 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 291 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 291 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 291 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

55 No. 599.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become
56 due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 599 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 599 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 599 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 599 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

57 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 599 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

No. 578.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf

Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.

[SEAL.] J. P. SCREVEN, *President.*

D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

58 Endorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.

[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 578 for $500, payable at the company's office in Savannah January 1st, 1879.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 578 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

59 Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 578 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for

6 months on bond No. 578 for $500, payable at the company's office in Savannah July 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 578 for $500, payable at the company's office in Savannah January 1st, 1877.
$17.50.] D. MACDONALD, *Treasurer.*

No. 582.] UNITED STATES OF AMERICA. [$500.

STATE OF GEORGIA.

Savannah, Albany and Gulf Railroad Co.

Know all men by these presents that the Savannah, Albany and Gulf Railroad Company hereby acknowledges to owe, and binds itself to pay, , or bearer, on demand, in Savannah, after the lapse of twenty years from date, the sum of five hundred dollars, lawful money of
60 the United States of America, with interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the first days of January and July in each year, on presentation and delivery of the annexed coupons at the company's office in Savannah.

In testimony whereof the Savannah, Albany and Gulf Railroad Company have caused this bond to be attested on their behalf by their president and secretary, and their common seal attached, this first day of January, 1859.
[SEAL.] J. P. SCREVEN, *President.*
D. MACDONALD, *Secretary.*

(On margin:) Five hundred dollars.

Indorsement.

STATE OF GEORGIA:

For value received, the Mayor and Aldermen of the City of Savannah, and hamlets thereof, hereby, as authorized by a public meeting of the citizens thereof, held on the 14th day of May, 1859, guarantee the payment of the within bond, principal and interest, as the same may become due according to the tenor thereof.

Witness the hand of the mayor with the seal of said corporation affixed.
[SEAL OF CITY.] THOMAS M. TURNER, *Mayor.*
Attest:
EDWARD G. WILSON,
Clerk of Council.

Coupons.

Savannah, Albany & Gulf Railroad Co.

61 There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 582 for $500, payable at the company's office in Savannah January 1st, 1879.
$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 582 for $500, payable at the company's office in Savannah July 1st, 1878.

$17.50] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 582 for $500, payable at the company's office in Savannah January 1st, 1878.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 582 for $500, payable at the company's office in Savannah July 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

Savannah, Albany & Gulf Railroad Co.

There is due to the bearer seventeen $\frac{50}{100}$ dollars, being the interest for 6 months on bond No. 582 for $500, payable at the company's office in Savannah January 1st, 1877.

$17.50.] D. MACDONALD, *Treasurer.*

62 (Endorsed:) In the circuit court of the United States for the southern district of Georgia, April term, 1879. A. M. Martin versus The Mayor and Aldermen of the City of Savannah. Filed the 24 day of March, 1879. Williard P. Ward, clerk. George A. Mercer, pl'ff's att'y.

Acknowledgment of service.

Due & legal service rec'ed. Copy, process, and all other notice waived this 27th March, 1879.

WM. D. HARDEN,
Def'd't's Att'y.

Defendant's pleas.

The defendant, The Mayor and Aldermen of the City of Savannah, by its attorneys, comes and defends the wrong and injnry, when, &c., and
63 says that it is not indebted to the said plaintiff in manner and form as the said plaintiff has declared against it, & of this it puts itself upon the country.

And for a further plea in this behalf, the said defendant says that the said supposed writings obligatory of the said defendant endorsed on said bonds, are not its deed, because it says that the supposed writings obligatory were made without authority of law, and were at the time of the making of the same, and still are, utterly void; and of this the said defendant prays the judgment of the court and puts itself upon the country.

And for a further plea in this behalf, the said defendant says that the said supposed writings obligatory of the said defendant, endorsed on said bonds, are not its deeds, because it says that the same were made without any consideration moving to the said defendant therefor, of which said plaintiff, at and before the time of his becoming the bearer thereof, had due notice; and of this it prays the judgment of the court, and put itself upon the country.

And for a further plea in this behalf, the said defendant says that it ought not to be charged with the said debt by virtue of the said supposed writings obligatory, because it says that the said writings obligatory were made without any authority of law, and were at the time of the
64 making of the same, and still are, utterly void, and were made without any consideration moving to this defendant therefor, and were not made for value received, and were not made for works of internal improvement, and were not issued by the said defendant.

And this the said defendant is ready to verify; wherefore it prays judgment if it ought to be charged with said debt by virtue of the said supposed writings obligatory; and of this it puts itself upon the country.

WM. D. HARDEN,
Corporation Att'y.

GEORGIA, CHATHAM COUNTY,
Southern District of Georgia, ss:

You, John F. Wheaton, do swear that you are the mayor of the city of Savannah, and the agent of the defendant in the above stated case, duly authorized to make this affidavit, and that the foregoing defense is true, to the best of your knowledge and belief. So help you God.

JOHN F. WHEATON,
Mayor City of Savannah.

Sworn to and subscribed before me this sixth day of Nov'r, 1879.

R. D. WALKER, JR.,
Notary Public, C. C. Ga.

(Endorsed:) In circuit court U. S. so. dist. Ga. A. M. Martin vs. Mayor & Ald. City of Savannah, def't's. Pleas. Filed Nov. 6, 1879. W. M. Hayward, dep. clerk. W. D. Harden, corp. att'y. A. R. Lawton, W. S. Chisholm, att's tor def't's.

65 *Amended plea.*

And for a further plea in this behalf the said defendant says that the said plaintiff ought not to have or maintain his aforesaid action against it, because this defendant says that the said alleged writings obligatory were made under and by virtue of the following resolutions and proceedings:

OFFICE S., A. & G. R. R.,
Savannah, M'ch 16, 1858.

At a meeting of the board of directors of the Savannah, Albany & Gulf Railroad held this day, Mr. Bartow offered the following resolutions, which were adopted:

Resolved, That the president be authorized to issue bonds of the com-

pany to the amount of one hundred and fifty thousand dollars ($150,000), if so much be necessary, having twenty (20) years to run, and bearing seven (7) per centum interest, payable semi-annually, and to apply the same for the discharge of the debts of the company now due.

Resolved, further, That a committee, to consist of three, of which the president shall be one, be appointed to apply to the city council to endorse the bonds to be issued by this committee, said committee to consist of Doctor J. P. Screven, Col. F. S. Bartow, and John W. Anderson, esq.

66 OFFICE S., A. & G. R. R.,
Savannah, April 29, 1858.

At a meeting of the board of directors of the Savannah, Albany & Gulf Railroad, held this day, Mr. Charles Green offered the following resolution:

Resolved, That the resolution of Mr. Bartow, at a meeting of 16' March, 1858, authorizing the president to issue bonds to the extent of one hundred and fifty thousand dollars ($150,000), be amended by extending the amount to three hundred thousand dollars ($300,000), under the conditions and stipulations contained in the said resolution.

OFFICE S., A. & G. R. R.,
Savannah, Apr. 29, 1859.

At a meeting of the board of directors of the Savannah, Albany & Gulf Railroad, held this day, Mr. Bartow offered the following resolution, which was adopted:

Resolved, That the resolution passed on the 16th March, 1858, authorizing the president to issue the bonds of this company to the amount of one hundred and fifty thousand dollars ($150,000) be amended so as to authorize the issue of bonds to the amount of three hundred thousand dollars ($300,000), if the same be necessary, which amount shall not be exceeded without the further action of this board.

67 SAVANNAH, 28 *Apr.*, 1859.

Solomon Cohen, Francis S. Bartow, and John W. Anderson, esq'r's, appeared before the board (city council) and in behalf of the Savannah, Albany and Gulf Railroad, submitted the foregoing resolutions; whereupon, after hearing a few remarks from Solomon Cohen and F. S. Bartow, esq'r's, Alderman Guerard offered the following resolution:

Resolved, That a committee of three be appointed by the mayor to consider the application of the Savannah, Albany & Gulf R. R'd for the endorsement, by the city, of the bonds for $300,000.

Alderman Boston offered the following amendment, which was adopted, viz:

Resolved, That his honor the mayor be authorized to endorse the bonds of the Savannah, Albany & Gulf R. R. to the sum of $300,000.

Alderman Falligant offered the following resolution, viz:

Resolved, That his honor the mayor, should he deem it illegal to endorse the bonds of the Albany & Gulf R. R. Co., be authorized to call a public meeting of the citizens of Savannah to ratify the action of this board; and if legal, that he be authorized to grant the request of the board of directors to endorse the bonds of the company to the amount of $300,000.

Alderman Guerard offered the following amendment, viz:

And be it further resolved, That the mayor be authorized and
68 empowered to arrange all details in reference to the form of such bonds and the time and place at which interest shall be paid, in conjunction with said railroad.

The resolution and amendment were then unanimously adopted.

Public meeting.

In pursuance of the proclamation of his honor the mayor a meeting of the citizens of Savannah was held in the council chamber of the Exchange, on Saturday, the 14th inst., to take into consideration the propriety of authorizing the city to endorse the bonds of the Savannah, Albany & Gulf R. R. to the am't of $300,000.

On motion of William Duncan, esq., Hon. Thomas M. Turner was called to the chair, and W. T. Thompson appointed secretary.

Maj. A. Porter addressed the meeting in favor of the proposed endorsement of the bonds by the city, and offered the following preamble and resolutions:

"Whereas the Sav'h, Albany & Gulf R. R. Co. made application to the city council at a meeting, held 28th of April, 1859, to guarantee or endorse the bonds of said railroad co. to the amount of $300,000; and

"Whereas the city council at said meeting did, by vote, authorize the mayor to endorse the said bonds, and if he had any doubts of the legality of such endorsement to call a public meeting of the citizens to ratify the action of council; and

69 "Whereas the mayor, by his proclamation dated the 11th of May, has called this meeting of citizens for that purpose; be it therefore

"Resolved, That this meeting hereby ratifies the vote of council and authorizes the mayor and aldermen of the city of Savannah to guarantee the bonds of the Savannah, Albany & Gulf R. R. Co. to an amount not exceeding $300,000, and to adopt the necessary steps to carry the same into effect."

The preamble and resolutions being seconded, were unanimously passed.

On motion, the meeting adjourned.

THOMAS M. TURNER,
Chairman.

W. T. THOMPSON, *Sec'ty.*

OFFICE S., A. & G. R. R.,
Savannah, May 18th, 1859.

At a meeting of the board of directors of the Savannah, Albany & Gulf R. R. Co., held this day, on motion of the vice-president it was ordered, that the proceedings, as published, of the city council of Savannah on the 28th ulto., and a public meeting of the citizens on the 14th inst., be engrossed in the minutes of this company.

The president then stated that the bonds of the company to the am't of $300,000 had been proposed and received, and asked for instructions of the board in reference to the disposition to be made of them.

On motion of Mr. Chas. Green, it was resolved, that as many of the new bonds, at par, as may be necessary to secure the debts due to the
70 Merchants and Planters' Bank and the Bank of the State, be handed

to the respective cashiers of these institutions upon their surrendering the guaranty of Doctor Screven on % of the Sav'h, Albany & Gulf R. R.

Resolved, also, That when the bonds are perfected a sufficient am't be paid over to Dr. Screven, at par, to extinguish the debt due by the company to him with interest.

And this defendant says that the said resolutions and proceedings were not authorized by any law of the State of Georgia, and that the said supposed obligations of the said defendant were without authority of law, and are null and void, of all of which the said plaintiff had due notice, and this the said defendant is ready to verify. Wherefore it prays judgment if the said plaintiff ought to have or maintain his action against it, and of this the defendant puts itself upon the country.

And for a further plea in this behalf the said defendant says that the said plaintiff ought not to have or maintain his aforesaid action against it, because this defendant says that the said supposed obligation of this defendant was a guaranty to pay the said bonds made and issued by the said Savannah, Albany & Gulf Railroad Company; that at the time the said supposed guarantees of this defendant were endorsed upon said bonds the said Savannah, Albany & Gulf Railroad Company was solvent
71 and able to pay the said bonds, according to the tenor and effect thereof; that on the 18th of April, 1863, by an act of the general assembly of the State of Georgia, the said Savannah, Albany & Gulf Railroad was authorized to consolidate with the Atlantic & Gulf Railroad Company; that by virtue of said act the said two companies afterwards, and in the said year 1863, did consolidate their stocks, and the said new company, the Atlantic & Gulf Railroad Company, came into existence and became liable to pay the said bonds according to their tenor and effect, of all of which the said plaintiff had due notice; that since the said consolidation the said plaintiff has accepted the said new company as his debtor and collected the coupons which were attached to said bonds from the said new company without any demand on this defendant until said first day of January, 1877, when the said new company became insolvent; this after said consolidation the said new company created liens and made mortgages on all the property of the said Savannah, Albany & Gulf Railroad, whereby all the said property was appropriated to the payment of the debts of the said new company to the exclusion of the said bonds and coupons mentioned in the said declaration; that all said acts and doings of the said two railroad corporations and of the said plaintiff were without the consent of this defendant, and without the recommendation of a public meeting of said citizens called for that purpose; and that
72 thereby the nature of the said contract has been changed, the risk of this defendant has been increased, and it has been exposed to greater liability. And this the said defendant is ready to verify. Wherefore it prays judgment if the said plaintiff ought to have or maintain his action against it, and of this the defendant puts itself upon the country.

A. R. LAWTON,
W. S. CHISHOLM,
Def't's Attorneys.

(Endorsed:) In the circuit court of the United States for the southern dist. of Ga. April term, 1879. A. M. Martin vs. The Mayor & Al-

dermen of the City of Savannah. Amended plea. Filed Nov. 26, 1879. W. P. Ward, clerk.

Verdict and judgment.

Afterwards, to wit, on the ninth day of December, one thousand eight hundred and seventy-nine, before the judges of the court came the within named plaintiff, by his attorney, George A. Mercer, within named, and the said defendant appeared by its attorney, and the jurors of the jury, to wit: (1) Frank Winter, (2) R. N. Cohen, (3) M. T. Quinan, (4) Alex. Bailey, (5) Jerry U. Ruffin, (6) David Beard, (7) Robert Holmes, (8) Andrew Newton, (9) Jackson B. Sheftall, (10) Francis S. Exley, (11) B. F. Hunter, (12) C. L. DeLamotta, likewise came, who being called,
73 elected, tried, and sworn to speak the truth of the within contained, upon their oath say:

We, the jury, find a verdict in favor of the plaintiff against the said defendant, the Mayor and Aldermen of the City of Savannah, for the principal sum of eleven thousand dollars ($11,000), with interest thereon from the first day of January, one thousand eight hundred and seventy-nine, for three hundred and eighty-five dollars ($385) for interest due January first, 1877, as per coupons of bonds; for three hundred and eighty-five dollars ($385) for interest due July first, 1877, as per coupons; for three hundred and eighty-five dollars ($385) for interest due January first, 1878, as per coupons; for three hundred and eighty-five dollars ($385) for interest due July first, 1878, as per coupons; for three hundred and eighty-five dollars ($385) for interest due January first, 1879, as per coupons; for interest on each coupon attached to said bonds from the time each said coupon became due and payable, respectively, and for the costs of suit to be taxed by the clerk."

Therefore it is considered that the said plaintiff do recover against the said defendant damages aforesaid by the jurors of the jury aforesaid in form aforesaid assessed, and also his costs and charges aforesaid to the said plaintiff by the said court now here of increase adjudged, and with his assent.

And the said defendant in mercy, &c.

GEORGE A. MERCER,
Plaintiff's Attorney.

Judgment signed and filed this ninth (9) day of December, 1879.

WM. M. HEYWARD,
Dep't Cl'k.

74 BILL OF EXCEPTIONS.

Be it remembered that, on the trial of this cause before the said court and a jury empanelled herein, at this the November term, A. D. 1879, of said court, the plaintiff, to maintain the issue on his part, offered in evidence the following testimony:

Testimony introduced by plaintiffs.

I. The bonds and guaranties sued on. The factum being admitted.

II. THOMAS S. WAYNE, jr., who testified as follows:

I am a notary public, and as such made demand for payment of the

bonds sued on, upon George Allen, who was cashier at the receiver's office, Atlantic and Gulf Railroad Co., and payment was by him refused. I intended to make demand on Col. Screven, the president of the Atlantic & Gulf R. R. Co., but he was sick. I made demand on Dec'r 31st, as Jan'ry 1st was a legal holiday. I then protested the bonds, and gave the usual printed notice to the mayor and aldermen of the city of Savannah. I sent the notice by mail, I think.

III. So much of minutes of city council, 1859, as refers to this transaction. Being proceedings referred to in def'd't's pleas.

IV. W. T. THOMPSON, who has file of Morning News for May, 1859. Was editor of that paper at that time. Made report as secretary of the meeting which authorized the endorsement of these bonds, being secretary of this meeting. The report published in paper of May, 1859, is
75 the report I made. (Stated here that the report at the meeting is the same as stated in def'd't's pleas, and it was therefore not read.) The mayor's proclamation calling the meeting was published May 12th, 13th, & 14th, 1859 (and was here read). The meeting was held in pursuance of the proclamation, and met in the council chamber of the Exchange.

My recollection was it was a large meeting. Don't recollect who moved resolutions in meeting (looks at paper). Maj. A. Porter did; his business was president of the State Bank. Don't know who was president of the Merchants and Planters' Bank. Think Hiram Roberts was; know he was president of that bank at about that time. Think he was the only president that bank ever had. John Boston was, I think, a director in the S., A. & G. R. R. Don't know if he was a director in that bank.

V. JOHN SCREVEN:

In 1859 I was acting president of the S., A. & G. R. R., or rather for the latter part of that year. I afterwards became president of the A. & G. R. R. I knew at that time F. S. Bartow and Solomon Cohen; they were lawyers by profession—eminent lawyers. Jno. M. Guerard was also, I think, at that time a lawyer. The object of the issue of the bonds was as stated in the minutes of the R. R. co. It was also understood that what remained was to be appropriated to the construction of the road and to aid in the construction of the depot here. At that time the S., A. & G. R. R. ran from Savannah to the initial point of the A. & G. R. R., about 68 miles from Savannah, at the junction of Wayne, Ware, and Appling Counties. The S., A. & G. R. R.
76 afterwards bought a few feet of their road. The A. & G. was not a prolongation of the S., A. & G. R. R., as originally contemplated, and at time when city endorsed bonds.

The guaranteed bonds were disposed of as follows: $52,000 were paid to the late president, my father, for money advanced by him for the road; $64,000 to the Merchants and Planters' Bank; $17,500 to the Bank of the State of Georgia. These liabilities were incurred for the benefit of the road, and $100,000 to pay installments due the A. & G. R. R., leaving $67,000, which was expended on account of rolling-stock, Altamaha embankment, and the depot here in Savannah. All the liabilities to the banks were for building the R. R., as far as I know. They had advanced for construction and other purposes. The A. & G. R. R. had been commenced at that time; it was completed after the war. It reached

Thomasville in March, 1861. The bonds brought par, as far as I know. I think the bonds would not have sold at par without the guaranty of the city. The two roads were merged in 1863. After this they acted under one incorporation. The consolidated roads, when the bonds became due, were insolvent; neither road able to pay them; both roads considered as merged. The S., A. & G. had no office. It was understood that the A. & G. R. R. could not and did not pay any of the bonds. When the bonds became due in 1878 the consolidated roads were in the hands of receivers appointed by this court, and all the employees were employed by the
77 receivers, and not by the corporation. The city held $1,000,000 stock in the S., A. & G. R.R. Jan'ry 1st, 1859. The city was always represented at the meetings of the stockholders by a commissioner. The city subscribed $200,000 to the stock of the A. & G. before consolidation. I think there is no doubt that the roads have added much to the prosperity of the city. The late president was my father. He had advanced money for the benefit of the road. I did not see the money nor the expenditures, but I believe it was so. Without the guar'ty, in my opinion, the bonds were not of great value; that is, without the city's endorsement. I suppose this, if the bonds could have been readily disposed of without it the city would not have been asked to guarantee them. There were no mortgages on the road at that time.

The board of directors of the S., A. & G. R. R. in 1859 were John Screven, , all of them as good citizens as any in town. I became acting president a brief time after the bonds were disposed of. A short time after that my father was taken sick with what proved to be his last illness, and I was elected acting president and became the president in the following January; was not president when the bonds were issued; was not a director previous to the issuing of the bonds; I know nothing, of my own knowledge, about the bonds. The bonds will explain themselves. The Altamaha embankment was an expensive work, a heavy embankment, 40 feet high in some places. After the special
78 appropriation of the bonds the balance of the proceeds were commingled with the general funds of the company, & was paid out like the rest of these general funds, but there would have been no difficulty in separating it; it was regarded as a sacred fund, though it was mixed with the general funds. Before I became president some bonds were issued by the S., A. & G.; $7,000 to W. I. Wey, $1,200 to G. W. Anderson. When I was president, besides these $300,000, there were $41,200 bonds issued without endorsement and without mortgage, and were sold at par in exchange for land, and they were paid. The original line of the S., A. & G. R. R. up to the time of this endorsement was the line between Sav'h and the S., A. & G. R. R. It was intended that the line of the S., A. & G. R. R. should occupy the line now occupied by the A. & G. R. R. The A. & G. R. R. then had a different projection, but both companies were equal in their intention to reach the Chattahochee River. $100,000 of the endorsed bonds were taken to pay the subscription of the S., A. & G. R. R. to the A. & G. R. R. The subscription was $200,000. No proceeds of any of these bonds, so far as I know, could have gone into the city treasury; they must have been appropriated otherwise. At the stockholders' meetings the city was represented as a stockholder by a commissioner. Think that at the meeting which authorized the consolidation the city only

voted as a stockholder through its commissioner. There was no public meeting of the citizens of Savannah called for the purpose of authorizing this vote. The State of Georgia owned stock in the A. & G. R. R.
79 to amount of $1,000,000, not in S., A. & G. R. R. The $41,000 bonds spoken of above were delivered for land at par.

The guaranty was, I think, contemporaneous with the issue of the bonds. Do not think there can be any question about it, as I do not believe any one would have taken the bonds without it. The State became owner of stock in the A. & G. R. R. before the city guaranteed the bonds of the S. A. & G. The State's stock was not in the road whose bonds were guaranteed. All coupons were paid by A. & G. R. R. Co. out of its funds until Jan'y 1st, '77. The city of Savannah has never paid any of these coupons. Never heard of the city denying its liability until the R. R. failed to pay its coupons. The gross receipts of S., A. & G. R. R. in 1859 were $113,941.38 ($119,200 with amount due for mail services), and this went the general fund. There was an understanding that the $67,000 was to be appropriated as intended. Cannot say that the identical money raised on the bonds was used in building depot or Altamaha embankment. The money was mixed up & not kept separately, & bills were paid as they came in. All the general funds in the bank were expended in paying expenses of road, buying property in and out of the city, paying workmen, &c. The S., A. & G. R. R. Co., at the time these bonds and coupons became due, had no offices or officers distinct from the A. & G. R. R. Co. The A. & G. R. R. at that time was in the hands of the receivers appointed by this court, and had no offices or officers except its corporate officers to preserve the corporate organization. The failure of the A. &
80 G. R. R. Co. and the inability of either road to pay said bonds and coupons when due was notorious in the city of Savannah. The other bonds issued were delivered to parties selling lands to the co., said parties agreeing to sell them lands for a certain sum to be paid in the bonds of the company at par.

VI. A. L. HARTRIDGE:

Am a broker; a stock broker since 1867. Have handled securities in this and for other markets. The guaranty of the city is all that gives credit to these bonds. The bonds without it would have been worth something up to 1875, but would not have been of half the value as with the endorsement. When it became known that the city denied its liability they fell from 70 to 30, and lower. They always ruled higher than the consolidated mortgage bonds, and nearly as high as the sectional bonds stood, about the same as straight city bonds. The R. R. has benefitted the city very much. Jobbing trade done largely on account of this road, besides cotton and naval stores. Think the R. R. added much to the prosperity of the city.

VII. The A. & G. was insolvent on Jan'y 1st, 1877, and has since been sold out on foreclosure of mortgages placed on the property by the A. & G. after consolidation, and executed to M. K. Jessup & Eugene Kelly et al., as trustees, complainants in foreclosure.

VIII. The following extract from the record in the case of Burter et al. vs. The Mayor and Aldermen of the City of Savannah were introduced by plaintiff. Filed 9th July, 1877, to Oct'r term, Chat.
81 sup'r court, and answer was filed July 20, '77, was dismissed by compl. at Febr'y term, 1879:

"And therefore your orators say that the coupon bonds of the city of Savannah which are now outstanding, & which amount, in the aggregate, to $3,473,800 were all of them issued without authority of law, & are invalid. Here reference is prayed to a schedule, to be found on page 5 of Exhibit A, which gives a full description of the said bonds, with their dates & the purposes of their issue. From this it appears that during the year 1853 there were issued coupon bonds to the aggregate amount of $1,204,500; that is to say, for the construction of water-works, $198,000; for Savannah Gas-Light Company, $5,000; for Savannah River improvements, $64,500, and for two subscriptions to the Savannah, Albany and Gulf Railroad Company, $937,000. While these are special grounds of defence against several of these classes of bonds as having been issues for purposes not sustained by law, it is sufficient to say that during the said year 1853 the municipal authorities of Savannah had no authority to issue coupon bonds for any purpose whatsoever. Your orators being advised that the power to borrow money 'for the use of the city,' etc., etc., did not involve the further power of contracting loans in the form of coupon bonds, negotiable securities of a peculiar character, passing and designed to pass from hand to hand like money.

"From the 1st of February, 1866, to the 2nd of July, 1873, there were issued coupon bonds to the amount of $2,269,300; that is to say,
for funding coupons prior to 1866 and for other purposes, $368,800;
82 for redemption of bonds which had fallen due, $767,500; for
improvements in the city of Savannah, $534,000; for harbor and other improvements, $500,000, and to meet the outstanding indebtedness of the city, $3,000,000. Although at the dates of these several issues the municipal authorities of Savannah had the power given for the first time by the existing code of contracting loans, to be made payable in coupon bonds, the exercise of that power was confined to a single purpose, namely, to pay subscriptions to works of internal improvement. It consequently follows that none of the last-mentioned issues of bonds, which have so greatly and rapidly increased the debt of the city, were authorized by this or by any law.

"9. It appears from the schedule of 'liabilities,' to be found on the first page of Exhibit A, that the municipal authorities of the city of Savannah have undertaken to place the city's endorsement on bonds of the Atlantic and Gulf Railroad, which are now in default for interest, and the principal of which will be due January 1st, 1879, to the amount of $300,000. Your orators are advised, and accordingly aver, that the endorsement was wholly without authority of law, and is null and void."

EXHIBIT A.

Report of finance committee, Savannah, Ga., May 31, '77.

The finance committee having completed their labors, beg to submit, as the result of their investigations, the following exhibit of the financial condition of the city, present and prospective, at this date:

LIABILITIES.

83	Bonded debt, as per table, &c.....	$3,473,800 00
	Mayor's notes:	
	Commissioners of pilotage, Sav'h.....	2,140 00
	Eugene Kelly & Co., New York.....	50,000 00
	National City Bank "	50,000 00
	Merch'ts Nat. Bank, Sav'h.....	57,000 00
	Southern B'k, State of Ga., "	20,000 00
	Sav'h B'k & Trust Co., "	18,000 00
	" Gas-Light Co., "	22,731 82
	Total.....	$3,798.346 82

CONTINGENT LIABILITY.

City's endorsement on bonds of the Atlantic & Gulf Railroad Company, now in default for interest, principal due Jan'y 1st, 1879.....	$300,000 00
Interest now due and unpaid.....	10,500 00
Determined and undetermined responsibility.....	$4,108,846 82

ASSETS.

12,383	shares Atlantic & Gulf R. R. stock*.....	$1,238,300 00
1,307	" Western R. R., of Ala.†.....	130,700 00

The following extract from the answer of The Mayor & Ald. of the City of Savannah to allegations contained in above record were also introduced by plaintiff:

"And the defendant admits the exhibit attached to the said bill, purporting to be a copy of a report of the finance committee of council on those
84 subjects, to be a true copy of said exhibit, and that it correctly sets forth in itself and in the tabular statements embodied therein and appended thereto the several classes of bonds and notes representing the said funded debts, with the dates when the same were issued, and the purposes for which they were issued, and the amounts of interest payable thereon, and other particulars, sufficient, in connection with the ordinances of the city under which they were issued, the said ordinances as published by authority of this defendant being public laws, to afford a full and clear understanding of the entire subject."

"And the defendant, further answering, says that it entered upon the aforesaid negotiations with the creditors of the city without any inquiry into the character of any class or branch of the said funded debt, or any intention to raise any question with regard to the legality of the same, or any part thereof, and with the sincere desire to include in such compromise as should be ultimately agreed on all its liabilities of that sort, and that it has no desire now to

* In the hands of rec'rs, & property not considered more than adequate for mortgage debts.

† Road sold out under foreclosure of mortgage two years since, when stock became worthless.

raise any such question, but the contrary; and this defendant avers that it does not know whether any, or, if any, which of the said bonds and notes were issued or given without authority of law, that being as this defendant is advised a mere question of law, and this defendant, in that as in other matters of law arising upon the said bill, submits itself wholly to the decision of the court."

85 *Mayor's proclamation.*

A proclamation.

Whereas council, at the last meeting, authorized the mayor to endorse bonds of the Sav'h, Albany & Gulf Railroad to the amount of three hundred thousand dollars, and to call a public meeting of the citizens of Savannah to ratify the action of the board, in case he deemed such endorsement to be illegal.

Now I, Thomas M. Turner, mayor of the city of Savannah and hamlets thereof, believing the spirit of the legislative act would be violated unless a public meeting was called to sanction the endorsement of such bonds, do hereby issue this my proclamation, calling a public meeting of the citizens of Savannah, at the council chamber, in the Exchange, on Saturday next, at 12 o clock m., for the purpose of considering the propriety of the city endorsing the bonds of the Sav'h, Albany & Gulf Railroad to the amount of three hundred thousand dollars.

Given under my hand and corporate seal of said city this 11th day of May, 1859.

[L. S.] THOMAS M. TURNER, *Mayor.*

Attest:

EDWARD G. WILSON, *C. C.*

Mayor's proclamation. Filed Nov'r 24, 1879. W. P. Ward, clerk.

86 The following are the sections of the acts referred to on the foregoing decision and charges:

Act of Dec'r 27, 1838.

"SEC. 5. That the mayor and aldermen of said city be, and they are hereby, authorized and empowered to obtain money in loan on the faith and credit of said city for the purposes of contributing to works of internal improvements."

Act of March 4th, 1856.

"SEC. 8. And whereas doubts have been entertained whether certain bonds issued and disposed of by the city of Savannah for internal improvements were legal and valid: therefore be it further enacted, that all bonds heretofore issued by the constituted authorities of the city of Savannah are hereby declared legal and valid, and from and after the passage of this act the mayor and aldermen of the city of Savannah and the hamlets thereof, upon the recommendation of a public meeting of the citizens of Sav'h, called for that purpose, shall have power and authority to cause bonds to be issued and disposed of in such manner as they may

direct for purposes of internal improvements, which bonds so issued shall be legal and valid."

Section 9 repeals conflicting laws.

Plaintiff closed.

Defendant introduced no evidence.

87 Whereupon, after argument, the court instructed the jury as follows:

1. Sec. 5 of the act of 1838 confers authority upon the mayor and aldermen of the city of Savannah to obtain money on loan on the faith and credit of the city for the purposes of contributing to works of internal improvement, and to issue negotiable bonds for the money so obtained.

2. Sec. 8 of the act of 1856 confers power upon the mayor and aldermen of the city of Savannah to issue negotiable bonds for the purposes and upon the terms and conditions therein set forth.

3. I incline to the opinion that sec. 5 of the act of 1838 is not repealed by the act of 1856, but even if it is, authority to the mayor and aldermen of the city of Savannah to issue negotiable bonds is conferred by sec. 8 of the said last-named act, upon the terms and conditions and for the purposes therein mentioned.

4. Sec. 5 of said act of 1856, if not repealed, authorized the mayor and aldermen of the city of Savannah to make the guarantee sued in this case for the purposes of contributing to works of internal improvement.

5. Sec. 8 of the said act of 1856 authorized the mayor and aldermen of the city of Savannah to make the guarantee sued in this case,
88 provided the same was made upon the same terms and conditions upon which and for the same purposes for which the said mayor and aldermen were authorized by said section to issue bonds.

6. That the evidence, if credible, showed that there was a valid consideration moving *to* the mayor and aldermen of the city of Savannah for the guarantee sued in this case.

7. The recital in the guarantee that it was made for value received, and the fact that said guarantee was under seal, imparted a consideration for the guarantee.

8. That the evidence, if credible, showed that the bonds guaranteed were issued for purposes of internal improvement, within the meaning of the 8th section of the act of 1856, and for the purposes of contributing to works of internal improvement, within the meaning of sec. 5. of the act of 1838.

9. When the power to issue negotiable bonds may be fairly derived from the charter of a municipal corporation, and the power has been exercised and acquiesced in by the inhabitants and the authorities of the municipality, and negotiable bonds issued under the power have, before their maturity, come into the hands of innocent and bona fide holders for value, doubts and ambiguities will be resolved in favor of the power.

89 10. No actings or doings of the Savannah, Albany and Gulf Railroad Co. or of the Atlantic & Gulf Railroad Co., or of both of them, without the consent of the holder of the bonds guaranteed in this case, can relieve the responsibility of the maker or guarantor of the bonds.

11. If the city of Savannah was a stockholder to the amount of a million

of dollars, or other large sum, in the Savannah, Albany & Gulf Railroad Company, and had, as such stockholder, a representative in the board of directors of said railroad company, and such representative conented to the consolidation of the said railroad company with the Atlantic & Gulf Railroad Company, the assent of the city to such consolidation may in this case be inferred from said facts.

12. The plaintiff in this case by going, after said consolidation, to the office of the Atlantic & Gulf Railroad Company, and there receiving payment of some of the coupons belonging to the bonds on which the guarantee sued on in this case was endorsed, did not thereby waive any of his rights derived from said guarantee, either against the Savannah, Albany & Gulf Railroad Company or acquit the mayor and aldermen of the city of Savannah.

13. The evidence in this case offered by the plaintiff (there being none offered by the defendant), if the jury believe it, would justify them in returning a verdict for the plaintiff.

90 To which opinion and decision of the court and charges to the jury aforesaid, the said defendant, at the time said charge was given and announced, then and there, while the jury was at the bar, excepted, and also at the same time and place excepted seperately to each of the said rulings, decisions, and charges.

Whereupon the jury then and there, in accordance with the said instructions from the court, rendered a verdict for the plaintiff, as follows:

"We, the jury, find a verdict in favor of the plaintiff against the said defendant, The Mayor and Aldermen of the City of Savannah, for the principal sum of nine thousand five hundred dollars, with interest thereon from the first day of January, eighteen hundred and seventy-nine; one hundred and fifty-seven dollars and fifty cents ($157.50) for interest due January 1st, 1877, as per the coupons annexed to said bonds sued upon; three hundred and thirty-two dollars and fifty cents (332.50) for interest due July 1st, 1877, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due January 1st, 1878, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due July 1st, 1878, as per said annexed coupons; three hundred and thirty-two dollars and fifty cents ($332.50) for interest due January 1st, 1879, as per said annexed coupons, besides interest upon each one of said coupons annexed to said
91 bonds and sued upon from the time each became due and payable, respectively, and the cost of suit to be taxed by the clerk."

And thereupon the court entered final judgment upon said verdict in favor of said plaintiff against said defendant.

To preserve all of which matters and things of record in this cause, defendant moves the court that this bill of exceptions, taken during the trial of this cause, be signed and sealed by the court, and made a part of the record herein during the progress of said trial; which is done accordingly.

W. B. WOODS. *Judge.* [SEAL.]

(Endorsed:) In the fifth circuit court of the U. S. for the southern

dist. of Geo. A. M. Martin vs. The Mayor & Aldermen of the City of Savannah. Suit on sealed guaranties. Bill of exceptions. Filed Aug., 1879. W. P. Ward, clerk.

92 *Writ of error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States for the fifth circuit and southern district of Georgia, greeting:

Because in the record and proceedings, as *sahll* in the rendition of a judgment in a plea which is in the circuit court before you, or some of you, between A. M. Martin, plaintiff, and The Mayor and Aldermen of the City of Savannah, defendant, a manifest error hath *appeared*, to the great damage of the said The Mayor and Aldermen of the City of Savannah, as by its complaint appears, and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that the*se*, and under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and ac-

93 cording to the law and *and* custom of the United States should be done.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the U. S., this ninth day of December, A. D. 1879.

WILLARD P. WARD, *Clerk.*

Allowed by me this December 9, 1879.

W. B. WOODS,
U. S. Judge.

Due and legal service of the within writ of error acknowledged, and copy *copy* lodged with clerk, and all other service waived, this ninth day of December, 1879.

GEORGE A. MERCER,
Attorney for A. M. Martin.

(Endorsed:) Supreme Court of the U. S., October term, 1880. The Mayor and Aldermen of the City of Savannah, pl'ffs in error, vs. A. M. Martin, def't in error. Suit on sealed guarantees. Writ of error. Filed Dec. 9, 1879. W. P. Ward, clerk U. S. circuit court.

Bond.

Supreme Court of the United States, October term, 1880.

THE MAYOR & ALDERMEN OF THE CITY OF Savannah, plaintiffs in error,
vs.
A. M. MARTIN, DEF'D'T IN ERROR.
} Suit on sealed guarantee.

Know all men by these presents that we, The Mayor and Aldermen of

the City of Savannah, and , are held and firmly
94 bound unto the above-named A. M. Martin in the sum of five hundred dollars ($500), to paid to the said A. M. Martin, his executors or administrators, to which payment, well and truly to be made, we bind ourselves and each of us, jointly, severally, and firmly, and our and each of our heirs, executors, and administrators, by these presents. Sealed with our seals and dated this ninth day of December, A. D. 1879.

Whereas the above named The Mayor and Aldermen of the City of Savannah hath prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled cause by the circuit court of the United States for the southern district of Georgia, at the November term thereof, A. D. 1879:

Now, therefore, the condition of this obligation is such that if the aforesaid The Mayor and Aldermen of the City of Savannah shall prosecute its said writ of error to effect, and answer all damages and costs if it shall fail to make good its plea, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

{ SEAL OF THE CITY OF SAVANNAH. } THE MAYOR AND ALDERMEN OF THE CITY OF SAVANNAH,
Per JOHN F. WHEATON, *Mayor.*
D. G. PURSE.

Attest—
FRANK E. REBARER,
Clerk of Council.
R. D. WALKER, JR.,
Notary Public, C. C., Ga.

95 Approved December 9, 1879.

W. B. WOODS,
U. S. Judge.

(Endorsed:) In the Supreme Court of the United States, October term, 1880. The Mayor and Aldermen of the City of Savannah, pl'ffs in error, vs. A. M. Martin, def'd't in error. Bond. Filed Dec. 9, 1879. W. P. Ward, clerk U. S. circuit court.

Citation.

UNITED STATES OF AMERICA, *ss:*

To A. M. Martin:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the second Monday in October, A. D. 1880, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and southern district of Georgia, wherein The Mayor and Aldermen of the City of Savannah is plaintiff and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in this behalf.

Witness the honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this Dec. 9, 1879.

WILLARD P. WARD, *Clerk.*
W. B. WOODS,
U. S. Judge, Presiding.

96 *Acknowledgement of service.*

Due and legal service of this citation acknowledged; copy, notice, and all other service waived, this ninth day of December, 1879.

GEORGE A. MERCER,
Attorney for A. M. Martin.

(Endorsed:) In the Supreme Court of the United States, October term, 1880. The Mayor and Aldermen of the City of Savannah, pl'ffs in error, vs. A. M. Martin, def't in error. Suit on sealed guarantees. Citation. Filed Dec. 9, 1879. W. P. Ward, clerk U. S. circuit court.

97 *Clerk's certificate.*

UNITED STATES OF AMERICA,
Southern District of Georgia, ss:

I, Willard P. Ward, clerk of the fifth circuit court of the United States for the southern district of Georgia, do hereby certify that the foregoing is a full, true, and complete transcript of the record and of all the proceedings in the case of A. M. Martin vs. The Mayor and Aldermen of the City of Savannah, lately pending in the said court, and appealed by writ of error, sued out by the said Mayor and Aldermen of the City of Savannah, defendant, to the Supreme Court of the United States, all carefully compared with the original papers remaining of file and of record in my office.

In testimony whereof I have hereunto attached the seal of the said court and affixed my official signature, at Savannah, Ga., this eleventh day of March, A. D. 1880, and of American Independence the 104th year.

[SEAL.] WILLARD P. WARD, *Clerk.*

(Indorsement on cover:) No. 199. The Mayor & Aldermen of the City of Savannah, plaintiff in error, vs. A. M. Martin. S. Georgia C. C. U. S. Filed 17th March, 1880.

(Stamp:) Office Supreme Court U. S. Filed Mar. 17, 1880. D. W. Middleton, clerk.